Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

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FOR THE PURPOSE OF

Making Laws and Regulations

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Reg. No. 2310G—200—9-5-87

PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

The Council met at the Council Chamber on Saturday, the 2nd January 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., *presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. A. P. MacDonnell.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. Moulvie Abdul Jubbar.
The Hon. Rai Jai Prokash Lall, Bahadur.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.

NEW MEMBER.

The Hon. Mr. Cruickshank took his seat in Council.

STATEMENT OF THE COURSE OF BUSINESS.

His Honour the President said:—I have thought it desirable to take the first occasion of our meeting in the Legislative Council of Bengal to place before you in very brief outline, and without attempting to enter into any details, the measures which we shall have to consider during the next three or four months of the present session. There are certain Bills standing over from the last session, and I think from previous sessions, to which I may in the first instance allude.

I find that there is a Bill to provide a supply of pure water to the suburbs of Calcutta, which was introduced into this Council about two years ago, and which has been the subject of frequent conferences between members of the Calcutta Corporation and members of the Suburban Corporation, and which is still pending on our file. It will be sufficient to say in regard to this Bill that in view of the larger measure of municipal legislation, to which

I shall presently advert, as about to come under our consideration, this Bill, which refers to the supply of pure water to the suburbs, may, I think, have to be abandoned.

Then there is a Bill to provide for the registration of permanent tenures. It will be in the recollection of the Council that that measure was brought forward last year by my hon. friend Mr. Reynolds, and after discussion, both, I think, at its introduction and on its reference to a Select Committee, has remained over to the present session. The reason for that was that the subject was one which was closely connected with the Bengal Tenancy Bill then before the supreme Legislature, and it was necessary to wait till that measure was passed; and further, the registration of Tenures Bill having attracted considerable attention, it was thought better, before we proceeded to legislate finally on the subject, to collect the opinions of the local authorities upon it. These opinions have been received by us during the last six or seven months, and will be placed in the hands of the Select Committee which is dealing with the Bill, and I have no doubt that on an early date, or at any rate before the session closes, it will devolve upon us to consider the report of the Select Committee, and to decide finally upon the provisions of that measure.

A larger Bill to amend and consolidate the law relating to canoongoes and putwaris in Bengal was most exhaustively discussed by my hon. friend Mr. MacDonnell at the last session of the Council. That was also proceeded with to the length of being referred to a Select Committee, but further action in the matter has been stayed at the request of the Government of India, who desired that the whole of the papers connected with that legislation should be submitted with a view to their being sent home, at the wish of the Secretary of State, for his consideration, and we are now waiting the final orders of those high authorities upon the subject. I may be allowed to observe in passing that the Bill is connected mainly with the work of survey and record of rights to be undertaken under the new Tenancy Act, and is supplementary to that law. We have already commenced under the authority of that Act the survey of one of the largest districts in Behar (Mozufferpore), and I am glad to be able to say that, so far as that measure has gone, it has been begun successfully and without any friction, and gives promise to be eventually prosecuted to a successful issue. But whatever may happen with regard to the survey and record of rights in that district, it will be apparent to every one that, unless we have some system of maintaining the results of the work done, unless we have an effective village agency to maintain that record from day to day and from month to month, the expense and trouble and risk incurred in carrying out the survey and record of rights will very soon be absolutely lost. What we wish to do is to establish a system of putwaris and canoongoes to maintain the record of rights when we have carried out the surveys. It is a system which prevails, I believe, in every province in India, except Bengal. It is a system which, if a proper detailed survey and record of rights in a district is a desirable thing, is

absolutely necessary. Therefore, I most sincerely hope that the sanction and approval of the Secretary of State and of the Government of India will be given to us to proceed with that legislation. I may add that there is no intention on the part of the Government to put the Bill, when it is passed, into operation in any district where a survey or record of rights has not been effected. That work is now being prosecuted tentatively in one district, and if it succeeds in Mozufferpore, I have no doubt it will be extended to other districts eventually, until we have a survey and record of rights throughout the whole province. But until a survey and record of rights is made, there is no intention of establishing these canoongoes and putwaris.

So far as regards the pending measures. The new measures which it is intended to bring before you for consideration are, in the first place, two small Bills, one of which is connected with the proposed amendment of Bengal Act V of 1880 (an Act relating to Vaccination). It is a very small measure, comprised in a very few sections, and will be introduced with the approbation of the Municipal Commissioners of this city and their Chairman, and it is intended to give fuller powers to public vaccinators, the Superintendent of Vaccination, and the Health Officer, to enable them to carry out the system of vaccination in this city. One difficulty has always arisen in connexion with the shipping in the port. Ships come and go at very short intervals now, and it has been very often found that they bring disease, and to prevent the spread of contagion the hands of the Health Officer will be strengthened to enable him to carry out vaccination in the ships visiting the port.

Another small Bill relates to the amendment of the Bengal Act IV of 1866, which is intended to give the Commissioner of Police (at whose instance the Bill has been introduced) greater powers for the arrest of persons committing nuisances and offences in the city. At the next meeting of the Council leave will be asked to introduce both these measures.

I now come to a larger proposal in connection with the amendment of Bengal Act VI of 1870, which was an Act passed in that year for the improvement of the village police throughout the province of Bengal. I had the honour myself, as a member of the Council under Sir William Grey's administration, of having charge of that Bill. It was intended to remedy the defects which prevailed very extensively throughout this province as regards the prompt and regular payment of the salaries of the village chaukidars. The practice had formerly been to secure their payment through the zemindar, and it was such an absolute failure and involved so much complaint, correspondence, and reference from the Magistrate to the Government, and from the Government to the zemindar to do what was their duty in the payment of these officers, and abuses so generally prevailed in consequence of the village police being sometimes more than a year, sometimes eighteen months, absolutely without pay, that Sir William Grey's government thought it necessary to put the working of that institution on a different basis. A complete change was therefore made

in the system, and the principle which was adopted was to relieve the zemindars of the duty and to establish a body of village punchayets, to whom was delegated the right to nominate the chaukidars in their respective villages; to be responsible for the proper discharge of their duties; and to realize under the plan proposed in the Act the dues leviable from the different members of the village for the payment of the salaries due to the policeman. These are very small sums, as you all know—sometimes only Rs. 3 a month, and, I think, rarely exceeding Rs. 5—and the fees which are leviable from the different members of each village community for this amount were of course very small indeed. It was thought that the establishment of these village punchayets, selected generally from amongst the residents of the village, would give that kind of a representative body to the village which would very easily and regularly, if they chose to apply themselves to the duty, realize the small cess required from each member of the village for the payment of these public officers. Speaking upon that occasion I said:—

"Rules have been made as simple as could be framed for the appointment of village committees as an agency to supervise the duties of the chaukidars, and provision has been made for realizing regularly and paying regularly the wages of the chaukidars. If these rules can be adequately enforced, as, with efficient administration, they may be enforced, with the removal of the main evil which has affected the usefulness of the institution, there need be no fear that better men will not be found for village chaukidars, or that in the discharge of their duties they will not be more efficient and honest than under the present system."

The Bill was passed upon those lines, and it was introduced at once in certain districts of the country. I remember that one of the earliest reports from Rajshahye gave promise of success, and the efficient administration of the Act in that district was suggested to other Magistrates for their imitation. I am sorry, however, to find that after several years of experiment the idea of leaving the law to work itself without any direct pressure from the Magistrates or their subordinates has not been realized. Gradually we began to find out several things,—that the punchayets did not like the duty; that they specially disliked the odium of having to assess or levy the tax; and that still complaints existed that the chaukidars were not in regular receipt of their monthly salaries. It was therefore at the instance of that very able officer Mr. James Munro, then Inspector-General of Police, that a Committee was appointed about three years ago, of which he was President, and two other civil officers were members of the Committee, to inquire into the operation of Act VI of 1870, and a very able and full report was submitted by them which went into the whole question and brought out the defects in the Act. If I read to you a summary of their conclusions, I think it will be sufficient to place before you what was actually found to be the state of things after the law had been in force for about ten years. They said:—

"(*a*) That the punchayets have signally failed voluntarily to accomplish the chief object with which they were constituted under Act VI of 1870, viz. the regular payment of the salaries of village watchmen.

'(*b*) That notwithstanding the apathy of punchayets, above 90 per cent of chaukidars eceive their salaries with tolerable regularity once a quarter."

That was a great improvement upon the former practice; whereas formerly haukidars were often in arrears of pay for more than a year, the working ıe Act, even with all its defects, had reduced the period of arrears very derably, and the chaukidars are now generally in arrears for only about months:—

'(*c*) That such regularity of payment has been attained by constant supervision, amount- harassment, which has been exercised towards the punchayets, and which was not plated as necessary or advisable when punchayets were constituted under the Act.

'(*d*) That in the absence of such harassing supervision, the punchayets would have ued to neglect their duties with regard to the regular payments of chaukidars' wages, y did before the application of such supervision.

'(*e*) That the appointment of punchayets, instead of being desired by members of communities, is intensely disliked by them: 1*st*, as being compulsory; 2*nd*, as being unerative; 3*rd*, as being undignified; 4*th*, as exposing the holders of the appoint- to the odium of their fellow-villagers; 5*th*, as causing to the punchayets the risk of ment and sale of their property in the event of collection of rates being in arrear; s subjecting punchayets to distasteful supervision at the hands of magisterial and police- s, especially the latter; 7*th*, as involving a regularity in the discharge of duty which ign to native custom and practice

'(*f*) That the selection of punchayets has not been conducted with such care as was ed by the Act; that police nominations have been too extensively had recourse to.

'(*g*) That even in cases in which special care has been bestowed on the selection of ayets, the practical results have been disappointing.

'(*h*) That in a very great number of cases the assessments made require revision, having made with unfairness, in the interests of the higher, and without consideration for the r classes

'(*i*) That the accounts produced are almost universally fictitious.

'(*j*) That it is doubtful whether the chaukidars receive the full amount of their wages to the fraudulent action of punchayets in other respects

'(*k*) That the influence of the punchayets for good or bad in securing better reporting me cannot be ascertained without full and lengthened enquiry."

I do not think that any Government, on the receipt of a report conducted Commission of such power as that to which this inquiry was com- d, could fail to see that the law of 1870 required amendment. Before, ver, having recourse to legislation, we thought it right to let the Com- oners of divisions see what the Commission had suggested, and a body ports has been received, which will be placed before the Council at the pro- ime, regarding the opinions of local officers on the recommendations made If. Munro's Committee My hon. friend Mr. Garrett will, next Satur- ask leave to introduce a Bill for the purpose of amending Act VI of . And here I may just briefly intimate the outline of the Bill which proposed to submit for your consideration. We do not desire to interfere the principle of punchayets. We desire to leave in their hands still omination of the chaukidars, and we desire to maintain with the pun- ets the responsibility of supervising the performance of the duties by ge watchmen. But the main defect of the Act, as connected with the

realizing of the cess for paying the chaukidars—this duty which has hitherto been so distasteful to the village punchayet—we propose to take away from them. If the report of the Committee is correct, that duty is one which they will very thankfully surrender. They regard it as an odious function, bringing them into unpleasant contact with their fellow-villagers, and they will be glad to see it placed in other hands. We propose to give the punchayet the assistance of a *bukshi* or tehsildar, whose duty it will be, to some extent under the supervision of the punchayet, to assess and levy the cess; and then as regards the payment of chaukidars, it is proposed that it should be made monthly, or, if necessary, at longer intervals, at the thana, under the superintendence of the regular police of the district. In this way we hope to secure what is very essential, the regular payment of the village watchmen. It is certain that in a country like India, when crime is committed, we can trust very little to voluntary agency to assist in its detection and punishment. We have often indeed to face opposition on the part of the villagers in the investigation of crime. It is not so in any other country. Here, for some cause or other, they especially dislike the idea of a policeman visiting their village and of themselves being subject to the harassment of a public enquiry, and being taken off to long distances to give evidence. All these things combine to prevent the people from that prompt co-operation which is so essential to the regular police in the discovery of crime. Therefore, if the village chaukidar is not properly and regularly paid, he will himself fall into habits of neglecting rather than of fulfilling his duties. The efficiency of the rural constabulary depends, as we all know very well, upon the assurance of their being fully paid for their work, and to this point the proposals of the new Bill will be specially directed.

I have to speak to you also upon a measure on which I can only say at present that I hope before the session closes a Bill may be submitted for your consideration. It is one of very great importance to this city, and I have no doubt it will attract considerable attention and discussion outside these walls. It is a Bill for the entire repeal probably of Act IV of 1876, under which the present Municipal Corporation exists, and the enactment of a new law. As you are well aware, the subject of municipal administration in Calcutta has been one which has been long and anxiously under consideration of this Government, and I am sorry to think that there have been differences of opinion between the members of the Corporation and myself upon a great many points. But the final conclusion of a long controversy, I think, brings us to the fact that for the future we shall understand our relative positions better, and that we shall especially understand this—that whereas in no other country can municipal administration be left entirely independent without some kind of external control, much the less in Calcutta can absolute independence be admitted. So long as a Municipal Corporation does its duty, you may be sure there can be no intention or desire on the part of any Government to interfere with them. In Calcutta, where, admitting fully and cordially that a great deal has been accomplished by the Municipal Commis-

[*The President.*]

ers within the last ten years, it is admitted by all that a vast deal yet in the of sanitary reform remains to be done. I am not singular in that opinion. Government of India has endorsed that view; and it goes much further. have conferences in Europe of men interested in sanitary science, who tell ery plainly that in the matter of cholera and its dissemination Calcutta is of the seats of the origin of that disease, and that not only for the advan- of the city itself, but of other people and of other countries, the iptest measures for the thorough sanitation of Calcutta are absolutely ssary. Therefore the subject is a very wide one, and the only anxiety ne part of the Government has been that the Municipal Corporation should ze its duties, not merely as a parish vestry, but as having very responsibilities and very large duties, and should act up to them. Beyond his, however, in the course of the discussion it became apparent whatever might be the merits of the Corporation or its demerits—and ognize fully that its merits are exceedingly great—there are outside of atta, and separated from it only by a public road, large tracts of densely- lated places which themselves are in a ten-fold worse condition than vorst parts of Calcutta. However much you may reform Calcutta in its ary aspects, if you allow these plague spot to remain in the suburbs, eal good can be accomplished; and that raises the question of the ability of amalgamating the suburbs of Calcutta with the central oration of Calcutta itself. As you are aware, an able committee, of h Mr. Reynolds was the President and Mr. Paul, the Magistrate of Suburbs, Mr. H. L. Harrison the Chairman of the Calcutta Corporation, o Kally Nath Mitter and others were members, has been engaged for last three or four months in discussing the question of the feasi- of amalgamating the suburbs with Calcutta in one municipal adminis- on. Their report, which, curiously, is not dated, only reached my hands t a week ago, and I took the earliest opportunity of placing it before public. I can only therefore at this present moment say that we as an executive Government, considering the details of the proposals h have been submitted by Mr. Reynolds' committee. But speaking myself, I quite accept the necessity of the amalgamation which they nmend. But when you come to note that their recommendations nce considerations connected with the area to be included in this gamated Corporation, the boundaries of the new municipality, and very difficult problem of finance—for I see they put forward the very consideration that, if the amalgamation is to be effective, the Government contribute something like six lakhs per annum to enable them to carry t successfully—you will admit that there is no light task before us. Apart and beyond all this is involved the decision as to the new constitution e Calcutta Corporation, and in various other ways the whole system unicipal administration in the capital is to be revised. This is the r aspect which such a Bill would contemplate. But again, at the nce of the Chairman of the Calcutta Corporation, it has been brought to

my notice that the law of 1876, which is imperfect in its drafting, has proved unworkable in a great many directions, and that the amendment of a great many of its sections is necessary. All these are points which require mature consideration, and all of these summed up seem to me to indicate that the present law will have to be repealed and an entirely new law prepared. Under all these circumstances, I can only make this promise, which is in accord with the original intention of Government, that considering the very great importance of the measure to Calcutta, and the many interests that are involved in this legislation, no such Bill will be passed in the present session. It is hoped, however, that before the close of this session—perhaps some time in March—we may be able, with the assent of His Excellency the Governor-General in Council, to place before you for discussion a carefully prepared Bill. That will enable us to give publicity, and to secure what is always very desirable, the opinion of the outside public on all its principles and details, and I have no doubt that when those opinions have been collected, we shall be in a position at the end of this year to proceed with the measure, which I hope will be one of very beneficial effect in the future administration of this city.

The last Bill, to which I need cursorily refer, is one arising out of the desire to establish a Port Trust in the port of Chittagong. The subject has only recently come before us in communication with the Commissioner of that division, and it is one which has now been found practicable from the existence of a rising commerce and trade of that port. It will enable us to make a very great improvement in that port, the future enlargement and development of which I think may be accepted as assured, especially when viewed in connection with the not distant prospect of the extension of railways in that part of the country. An early opportunity will be taken of placing a Bill before you to carry out that object.

I thank you, gentlemen, for the very patient attention you have given to my remarks. I hope next week to lay before you one or two of the measures to which I have referred for your practical consideration.

The Council was adjourned to Saturday, the 9th instant.

BY subsequent order of the President the meeting of the Council was postponed to Saturday, the 16th instant.

The Council met at the Council Chamber on Saturday, the 16th January 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., *presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. A. P. MacDonnell.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. Moulvie Abdul Jubbar.
The Hon. Rai Jai Prokash Lall, Bahadur.
The Hon. G. Irving.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

NEW MEMBER.

The Hon. Mr. Anundo Mohun Bose took his seat in Council.

VACCINATION ACT, 1880, AMENDMENT BILL.

The Hon. Mr. Reynolds moved for leave to introduce a Bill to amend Bengal Act V of 1880 (to make vaccination compulsory), and in doing so he said:—The measure which I ask leave to introduce is intended to remedy some defects which experience has brought to light in the working of the Bengal Vaccination Act. The practice of inoculation for small-pox was prohibited in Calcutta in 1865, which was the year in which the most fatal outbreak of small-pox, of which we have any record, occurred in the Town. In that year the deaths from small-pox in Calcutta amounted to 4,923. The practice of inoculation was then prohibited, but it was thought that the time had not fully come for the introduction of a compulsory vaccination law. During the next ten years the Town was comparatively free from the disease, but there was another epidemic in 1875, and a still more serious one in 1878-79, the number of deaths in those two years having amounted to 2,267. It was the serious epidemic of 1878-79 which led to the enactment of the compulsory law of 1880, which is the law still in force. The provisions of that Act, omitting such as are of a temporary character, are briefly as follow:—The population is divided into children and adults: those under fourteen years of age being reckoned as children. All children born within Calcutta or the Suburbs must be vaccinated within one year of their birth; children born outside Calcutta, but brought within it when under one year of age, must be vaccinated within fifteen months of their birth. and all other children coming within the limits of the Town must be vaccinated within six months of their arrival. With regard to adults, they may be served with a notice requiring them to be vaccinated within fifteen days. The Act has worked with very fair success

in Calcutta, the Municipal Commissioners having shown great energy in its administration, and the number of vaccinations has steadily increased year by year. The report of a Special Committee of the Municipality, to whom the question of the working of the Act was referred for consideration, shows that the number of vaccinations has for some time exceeded the number of births, as shown by the registration returns, by about 10 per cent.; but the Calcutta Health Officer's report for 1884, which is a very interesting and valuable paper, shows that in that year the number of vaccinations exceeded the number of registered births by no less than 50 per cent. The staff under the Health Officer consists of a Deputy Superintendent, an Assistant Superintendent, 21 vaccinators, and 2 female vaccinators, and a system of house-to-house visitation has been established to see that the law is not evaded. On the whole, I believe that the protection given under the Act to children and permanent residents in the Town is pretty nearly as complete as it can be made, but unfortunately it has not succeeded in stamping out small-pox in Calcutta: on the contrary, the special activity with which the Act was worked in 1884 was stimulated by an outbreak of the disease, which was far less serious than those of previous epidemic years, but which nevertheless caused 478 deaths in that year. Experience has shown what are the weak parts in our armour, and it is clear that, though the Act may be sufficient for the protection of children and permanent residents, it does not adequately meet the cases of immigrants, visitors, and temporary sojourners. In connection with this point, I will read to the Council some extracts from the report of Dr. O'Brien for 1884:—

"Our difficulty lies in the thousands of unprotected persons of all ages who swarm into the Town annually, and who either import the infection directly, or imbibe it in the Town or the Suburbs. Now that Calcutta is so intimately connected by means of lines of railway and other routes of traffic with districts in which inoculation is still practised without restraint, and in which small-pox breaks out nearly every year, there will never be a lack of the contagium of the disease. During the year several cases were reported in which persons actually suffering from the disease arrived in the Town. In November, for instance, the steamer *Darlington* arrived in port from Jeddah with several cases of small-pox on board. In the same month the steamer *Empress of India* arrived with the crew suffering from the disease. The sufferers were sent to hospital, and all unaffected persons on board were re-vaccinated. In December the disease broke out in Khalasitollah in the Taltollah ward, a locality in which a large number of native boatmen reside, and it was plain that the disease was imported by them. From Taltollah the disease spread into the neighbouring ward of Fenwick Bazar."

Then Dr. O'Brien gave a map which showed the local prevalence of small-pox in the several wards of the Town which suffered most from the disease, and remarked—

"The broad fact to be gathered from the map is that the quarters of the Town which are mainly occupied by permanent residents do not suffer from small-pox in the same proportion as the quarters which are the chief resort of strangers. * * * Wards Nos. 5 and 7, viz. Jorabagan and Burra Bazar, are essentially strangers' wards, the proportion of Calcutta-born persons in the former being only 18 and in the latter 11 per cent., and they suffered heavily. * * * * * * Ward No. 14, Taltollah, presents a high mortality compared with the neighbouring wards. There were in all 28 deaths in this ward,

but nearly half of these occurred in Khalasitollah, a quarter largely frequented by native boatmen. In fact in the wards where the population is largely made up of permanent residents, a class among whom complete protection by means of vaccination is possible, there is very little small-pox, and in the wards where the number of immigrants is large, the disease prevails much more extensively."

The case of the *Darlington*, which arrived from Jeddah with small-pox on board, and which is referred to in this report, is more particularly noticed in a report made by Dr Lynch, the Health Officer of the Port, to the Sanitary Commissioner. Writing on 30th November 1884, he brings to notice the case of the *Darlington*, which arrived in port with 677 returned pilgrims, and he said—

"The S. S. *Darlington* arrived in port on the 4th instant with 677 returned pilgrims from Jeddah, amongst whom small-pox had broken out on the voyage, fourteen of them having been found suffering from it on arrival. The disease had also extended to the European crew, five of whom have, up to date, been removed to the Small-pox Hospital

"It seems desirable that the sanitary authority should have the power of limiting the spread of small-pox in the localities to which these pilgrims are returning by the immediate vaccination of all unprotected persons found on board infected vessels on arrival.

"No such power is given by section 13 of the Bengal Vaccination Act, which provides for the serving of notices on unprotected persons. Such a provision is inapplicable to the case of pilgrims, who disperse at once over Lower Bengal when they land.

"It is also an insufficient safeguard in the case of the crews of vessels infected with small-pox. Within the limit of fifteen days allowed by the Act the men may ship in other vessels, or they may scatter over the town in sailors' boarding-houses, &c., carrying small-pox with them"

The nature of the evils to be remedied being thus clearly indicated, the Bill proposes to remedy them, *first*, by allowing notices to be served on the parents of children, in the same way as in the case of adults, requiring such children to be vaccinated within fifteen days of the service of notice; *secondly*, by allowing the Health Officer of the Port to require any unprotected person on board any ship arriving in port to be vaccinated; and *thirdly*, by allowing public vaccinators reasonable access to houses in order to ascertain whether the inmates are protected or not. I should like to be permitted to say a few words on each of these proposals. The first of these proposals was made by the Special Committee of the Municipal Commissioners, and their recommendation is strongly supported by the Health Officer of Calcutta I think it must be clear that it may be very desirable, not merely to require children to be vaccinated within a certain time after birth, but under certain circumstances to permit some responsible authority to require children to be vaccinated within fifteen days. When a child is in the vicinity of an outbreak of small-pox, it may be necessary that protection should be given at once; but under the Act a child born in Calcutta cannot be required to be vaccinated till a year after its birth, or, when brought into Calcutta after birth, within fifteen months of its birth. If, therefore, a child is two months old when brought into Calcutta, the law does not compel its vaccination till after thirteen months. With regard to the second proposal of the Bill, it may be thought that this is a somewhat stringent measure; but I see that the Port Health Officer declares that it is already the law and

practice in New York. I have not been able to verify that statement, so I cannot say whether it is correct; but I may be allowed to refer to the provision of the English Public Health Act of 1875, section 110, which puts ships on the same footing as houses, and declares that the master or officer in charge of a ship shall, for the purposes of the Act, be considered to be the occupier of a house. It will not be necessary to extend a measure of this kind to vessels belonging to the Government or Her Majesty's Navy, or to the vessels of any foreign State. Such vessels are exempted from the Ports Act of 1875, and they would properly be exempted from the provisions of this Bill; but with regard to other vessels, a provision of this sort is essentially necessary to guard against such cases as those of the *Darlington* and the *Empress of India*, and to prevent the spread of contagion. The third proposal made in the Bill arose out of the report of the Municipal Committee, which said—

"The law gives no power to any officer to enter into a house and ascertain whether the inmates are protected or not. Most houses allow free ingress to vaccination, but it is reported that persons coming from the North-West often refuse, and they are the very persons among whom protection is most defective."

That was confirmed by Dr. O'Brien's report, in which it was stated that—

"a large proportion of the population of the Jorasanko Ward consists of Marwaries and other persons from up-country who are vehemently opposed to vaccination. In fact, more opposition to vaccination is felt in this Ward and in Jorabagan and Burra Bazar than in any other part of the town. Small-pox, as might be expected, is more prevalent in them than in any other part"

I do not think that I need say more, except that the Bill has been drafted, and if leave is given it may be introduced at the next meeting of the Council.

The motion was put and agreed to.

CALCUTTA POLICE ACT, 1866, AMENDMENT BILL.

The HON. MR. REYNOLDS moved for leave to introduce a Bill to amend the Calcutta Police Act of 1866. He said:—This is an amending Bill, the necessity for which has been pressed on the Government by the Commissioner of Police. The Calcutta Police Act IV of 1866, like similar Acts which preceded it, gives power to the police to arrest without warrant any person committing, in their presence and view, any of the offences referred to in the Act. Now, in the former Act XIII of 1856, and in Act XLVIII of 1860 which is to be read with the Act of 1856, there was a provision which declared that whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or place of public amusement or resort, shall be liable to a fine not exceeding Rs. 20, or to imprisonment with or without hard labour for a term not exceeding fourteen days. When that section was reproduced, or partly reproduced, in the existing Act IV of 1866, the wording was changed so as to make the section applicable, not to persons who are drunk and incapable of taking care of themselves, or guilty of any

riotous, disorderly, or indecent behaviour, but simply to persons who are in such a state of drunkenness as to be incapable of taking care of themselves. The consequence is, as the Commissioner of Police has pointed out, that the police have no authority to arrest drunken persons behaving in a riotous and disorderly manner, unless they are incapable of taking care of themselves. It is quite evident that a man who is capable of taking care of himself, though intoxicated, is capable of brawling and behaving in a violent manner; but under the law, as it stands, the police cannot arrest him unless he is incapable of taking care of himself. I think the Council will agree that this is a power which the police ought to have; it was a power which they possessed under the previous Act, but which, apparently by an oversight in the wording of the amending Act, has been taken away. It is a power, I may also mention, given to the police by the Mofussil Police Act V of 1861.

Another matter in which the law requires amendment is of a similar character. The law at present does not authorise the police to arrest persons who commit a nuisance, or indecently expose themselves, in the streets or other public places: that was also a power given under Act XIII of 1856, and reproduced in the Act of 1866; but that section has since been repealed, and a provision of that kind is considered very necessary for the protection of public order and decency.

This Bill also has been drafted, and I can introduce it at the next meeting if permission is now given.

The motion was put and agreed to.

VILLAGE CHAUKIDARI ACT, 1870, AMENDMENT BILL.

The Hon. Mr. Garrett moved for leave to introduce a Bill to amend the Village Chaukidari Act of 1870. He said:—In asking for leave to introduce a Bill for the amendment of the Chaukidari Act, it is unnecessary, after what was said at our opening meeting, that I should take up the time of the Council with any account of the condition of the village watchman prior to the introduction of that Act.

Act VI of 1870 was framed in a spirit of entire trust in the village community, and it was hoped that, when the control of the village police was placed in the hands of the villagers themselves, a sense of self-interest would induce them to co-operate honestly and cordially in the detection of crime, and that a sense of justice would induce them to see that the village watchman was regularly paid. But although a measure of success has been attained by this Act, and things are now better than they were before it, especially in the way of securing to the village watchmen a more regular payment of their wages, yet it seems certain that that measure of success is far less than the framers of the Act hoped for.

In the practical working of the Act four things have come out very plainly—

1*st*—That the office of punchayet is extremely distasteful to those who are called on to serve in it.

2*nd*—That the salaries of the watchmen are still paid much less regularly than they ought to be.

3*rd*—That the punchayets have not co-operated cordially with the police in the detection of crime, and that their influence has been exerted rather to prevent the detection of it.

4*th*—That the watchmen, being now appointed by the punchayets, and liable to be punished and dismissed by them, think that they owe allegiance to them only, and therefore the regular police have, to a considerable extent, lost touch of the village watchmen, who, after all, are in this country the people to whom the regular police must chiefly look for the information to enable them to detect crime.

The dislike to serve on a punchayet is probably due to a great extent to the fact that the punchayets have to collect the tax themselves. The office of a tax-gatherer is always a disagreeable one, and as, in addition to the duty of gathering the tax, the punchayets are liable to have their own goods distrained if they fail to gather it, it is easy to be understood why the office has become unpopular. Indeed, so distasteful has this tax-gathering been to many of the punchayets, that they have preferred to pay the tax out of their own pockets to exacting it from their neighbours. With a view to remedy this defect, and also to provide for the more prompt collection of the tax, without which, of course, it is impossible that the chaukidars can be more regularly paid, I propose to relieve the punchayets entirely of the duty of collecting the tax and of responsibility for its non-collection. The punchayets, subject to the supervision of the Magistrate, will continue to assess the tax, and within prescribed limits to fix the number of village watchmen to be employed, and the salary to be paid to them, but the actual collection of the tax will be made entirely by paid tehsildars, one such tehsildar being appointed to every 25 villages, paid by a rateable contribution from all the villages within the circle. He will work under the control of the Magistrate. The punchayet will be relieved from all liability for the non-collection of the tax. I am afraid that the disposition of punchayets to hush up crimes—at least such as the village society desires to hush up—cannot be eradicated by any legislative enactment; but I hope to be able to do something to make the village watchmen less under the control of the punchayets and more amenable to the regular police. I do not wish in any way to make the village watchmen a sort of lower grade constables. They must, before all things, be members of the village community, because it is to them that the regular police must look principally for information of what is going on in the village. But the village watchmen must learn also that they are not merely villagers, and that they owe duties to the superior police authorities which may not always quadrate with the wishes of their fellow villagers.

I propose therefore to lay down that, although the village watchmen will be nominated by the punchayet, they shall be appointed by the Magistrate of the district, and I propose to withdraw from the punchayets entirely the power of punishing and dismissing the watchmen. This duty I propose to vest in the District Superintendent of Police, subject to the general control of the Magistrate of the district. I propose also that the village watchmen shall no longer receive their salaries from the punchayet, but shall be paid at stated periods at the police stations by the tehsildars in presence of the officer in charge of the police station. The village watchmen will also be compelled to attend at the police station at stated periods, and to report what is going on in the village.

With a view also to have the village watchmen themselves looked up rather more than they are at present, I propose that in every tehsildar's circle there shall be appointed a circle sirdar, whose duty it will be to visit frequently every village in his circle, and see and report to the police generally what is going on. Though he will always be a local man appointed from among the residents of the circle to which he belongs, I propose to make him entirely independent of the punchayet and under the direct control of the police. His salary will be provided by a rateable contribution from all the villages within his circle.

I hope that these additions will not involve any sensible increase of assessment on the villagers. I assume that the pay of a chaukidar will ordinarily not exceed Rs. 4 a month; allowing Rs. 8 a month for the circle sirdar and Rs. 18 for the circle tehsildar, inclusive of the contingent expenditure, the amount to be raised in each village will be Rs. 4, plus $\frac{1}{25}$th part of Rs. 26—say Rs. 5-2 a month.

I suppose, as a rule, that this will be distributed over 100 houses. The average of assessment on each house will be less than an anna.

I propose also to attempt, in a modest way, to utilise the village watchmen for the collection of vital and mortuary statistics. I propose to introduce a section in the Bill making it compulsory on every house-holder to report to a member of the village punchayet every birth or death taking place in his house. This information will be entered in a register which will be in a form prescribed by the Act, and the village watchman, when making his weekly report to the police station, will take with him a copy of all entries made in this register during the previous week.

There remains only one other point in the Bill to be noticed. The Council is aware that Act VI of 1870 has not been extended to all parts of Bengal. In many villages, especially in the Burdwan Division and in Orissa, the village watchman is still appointed under Regulation XX of 1817, and is paid by a grant of land. I propose to extend the present Act to all parts of the territories under the Lieutenant-Governor of Bengal, except Chota Nagpore, the Chittagong Hill Tracts, and the Sonthal Pergunnahs, and to abolish the system of payment by grants of land altogether. In those villages in which the watchman is now remunerated by a grant of land, I propose to resume the lands and hand them over to the zemindar at a fixed assess-

ment, which assessment will be made an asset of the Village Watchman's Fund, and the villagers will have to raise amongst themselves only so much as will be required for the payment of the watchman, after giving credit for this amount. I am aware that this proposal is opposed to the opinions of some officers whose opinions are entitled to all respect. I am aware also that the change will involve some loss of money, and that in some villages, where the villagers have hitherto contributed nothing for the support of the village watchman, they will have to raise an assessment to supplement the sum payable by the zemindars. But I believe that the assessment will be on the whole very light, and that the advantages of introducing an uniform system and the increased control which the Magistrates will be able to exercise over the village watchmen, when they will have the complete power of the purse in their hands, will make the village watchmen much more useful for the detection of crime, and will more than compensate for a slight money loss.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 30th instant.

The Council met at the Council Chamber on Saturday, the 30th January 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., *presiding*.
The Hon. G. C. Paul, C.I.E., *Advocate-General*.
The Hon. H. J. Reynolds, C.S.I.
The Hon. A. P. MacDonnell.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. Moulvie Abdul Jubbar.
The Hon. Rai Jai Prokash Lall Bahadur.
The Hon. G. Irving.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

VACCINATION ACT, 1880, AMENDMENT BILL.

The Hon. Mr. Reynolds introduced the Bill to amend the Bengal Vaccination Act, 1880. He said:—This Bill, as I mentioned when asking for leave to introduce it, deals principally with three points. In the first place, it gives power to the Superintendent of Vaccination at any time to require the parent or guardian of a child to have the child vaccinated, if the Superintendent considers such a measure to be necessary. Provision to this effect is made by sections 3 and 4 of the Bill. I have already explained the necessity which exists for amending the Act in this direction, and I believe no one will be prepared to say that the Superintendent ought not to be able to exercise this power, especially in cases in which an unprotected child may be exposed to the contagion of small-pox, and it may be necessary to take immediate precautions against its contracting the disease.

The next section of the Bill is certainly an important section, and I referred to it on a former occasion as a somewhat stringent measure. It allows the Health Officer of the Port, if he deem it expedient, to require any unprotected person on board any vessel arriving in the Port of Calcutta to submit himself forthwith to be vaccinated, and every such person must comply with the requisition before leaving the vessel. I must admit that I have not been able to find any precedent exactly corresponding with this section. In one of the papers connected with the Bill it is said that a law of this kind is in force in New York, but, as far as I can learn, the New York law applies only to cases in which a vessel has actually been placed in quarantine, and this is no doubt a distinction of some importance. Again, there are certain provisions in the English Public Health Act which give powers analogous to the powers given by this section of the Bill, but these are not intended to be summarily and generally worked, but only on particular occasions and under exceptional circumstances. I think that what I said before of the cases of

small-pox on board the ships *Darlington* and *Empress of India* in this port shows the necessity of some such power being given to the sanitary authorities of the port, and therefore I will ask the Council to accept for the present the section as it stands in the Bill; but I am prepared to admit that it may be proper that the Select Committee should consider whether some restrictions should not be placed on the very wide power given by this section to the Health Officer of the Port, so as to ensure that the power shall be exercised with proper discretion and only under circumstances which necessitate it.

Section 6 gives power of access to a public vaccinator to enter any house or vessel for the purpose of ascertaining whether the inmates are protected. To this also I believe no serious objection will be made.

I do not know that I need say anything more, but I should like to make a brief reference to two other provisions which will not be found in the Bill. The first of these is a provision for the compulsory re-vaccination of persons who have already been vaccinated. The advantage of a provision of this kind was pressed on the Government of Bengal by the Committee of the Municipal Corporation who were appointed to consider the working of the Act, and the proposal was also supported by the Sanitary Commissioner. There seems to be a consensus of medical authority in favour of the opinion that though vaccination, so long as its effects endure, is practically a protection against small-pox, it is not a permanent protection. Persons who have been successfully vaccinated have subsequently taken the disease, though they have generally taken it in a mild form, thus showing that they are not absolutely protected unless they are re-vaccinated after they are grown up, and on this account both the Sanitary Commissioner and the Municipal Commissioners were in favour of a compulsory law requiring persons to be re-vaccinated. But the Government was of opinion that as there is no precedent in any other country for such a provision in any general vaccination law applicable to the civil population, it was undesirable to introduce it at present into Bengal.

The other provision to which I refer is a provision for the compulsory isolation of infected persons. This proposal was pressed upon the Government from several quarters, but it was thought that its proper place would not be in a Vaccination Act, as it would not be confined to contagion from small-pox, but should form a part of some Act relating generally to contagious diseases. I refer to the exclusion of these two provisions as tending to show that in the amendments which have been embodied in the Bill the Government has proceeded tentatively and cautiously, and has not gone in advance of public opinion, but has even declined to accept some of the suggestions which have been made to it. I now beg to move that the Bill be read in Council.

The motion was put and agreed to.

The Bill was read accordingly.

The Hon. Mr. Reynolds also moved that the Bill be referred to a Select Committee consisting of the Hon. Mr. Cruickshank, the Hon. Mr. Anundo Mohun Bose, and the Mover.

The motion was put and agreed to.

[*Mr. Reynolds; Moulvie Abdul Jubbar; Mr. Garrett.*]

CALCUTTA POLICE ACT, 1866, AMENDMENT BILL.

The HON. MR. REYNOLDS introduced the Bill to amend the Calcutta Police Act, 1866, and moved that it be read in Council. This, he said, is a short Bill and consists of two sections, one of which gives the police power to arrest in cases where a person is found drunk and incapable of taking care of himself, or is guilty of any riotous or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and the other gives similar power in cases of persons who wilfully and indecently expose their persons, or commit a nuisance in or near any public street, or thoroughfare, or place. I think the Council will agree that it is necessary that the police should have these powers.

The HON. MOULVIE ABDUL JUBBAR said:—With reference to the Bill which the hon. member opposite has introduced for the amendment of the Calcutta Police Act, I beg to inform the Council that this Bill was introduced at the instance of the Commissioner of Police; but it appears to me that it escaped the notice of that officer that the Suburban police required to be invested with the same power which the Bill proposes to give to the Calcutta police. So far as police administration is concerned, the procedure is the same both in the Suburbs and Calcutta. Section 41 of the Suburban Police Act, which was passed in the same year as the Calcutta Act, corresponds with section 68 of the Calcutta Police Act, and I think the amendment of the latter necessitates the amendment of the former. I therefore suggest that the amendment now proposed to be made in the Calcutta Police Act should be extended to the Suburban Police Act; otherwise there will be an anomaly by no means desirable, for while men will be liable to arrest for being drunk and obstreperous on this side of Circular Road, on the other side of the same road they will go scot free. I therefore think the amendment of section 41 of the Suburban Act is as much necessary as the amendment of section 68 of the Calcutta Police Act.

The HON. MR. REYNOLDS said:—I think the amendment suggested by the hon. member will be necessary, and the hon. member is probably right in saying that a similar provision will be required in the Suburban Police Act. That, however, is a point which the Select Committee will take into consideration.

The motion was put and agreed to.

The Bill was read accordingly.

The Hon. Mr Reynolds also moved that the Bill be referred to a Select Committee consisting of the Hon. Moulvie Abdul Jubbar, the Hon. Mr. Cruickshank, the Hon. Mr. Anundo Mohun Bose, and the Mover.

The motion was put and agreed to.

VILLAGE CHAUKIDARI ACT, 1870, AMENDMENT BILL.

The HON. MR. GARRETT introduced the Bill to amend the Village Chaukidari Act VI (B.C.) of 1870, and moved that it be read in Council.

[*Mr. Mac Donnell.*]

The HON. MR. MACDONNELL said:—The Bill which my hon. friend opposite has introduced to our notice to-day seems to me to be on many grounds so worthy of support from this Council that I feel bound to do something more than record in its favour a silent vote. The efficiency of the rural police lies at the very root of our administration of criminal justice, and any proposals tending to increase that efficiency must always command an attentive hearing from those interested in the good government of the country. It has been my fortune during fifteen years' service in the mofussil to have been associated more or less intimately with the police administration, and for five years after the passing of the Act which it is now proposed to amend I paid, in the capacity of Magistrate of a district, special and continuous attention to the chaukidari question. The results of my experience tally in the main with the views set forth in the report of Mr. Munro and his colleagues, and I for one am convinced of the necessity of legislation on this question. I am also satisfied that legislation should take the general direction indicated in this Bill, though I do not pledge myself to support all the details, specially those regarding jaghir lands. It is, no doubt, true that here and there we find an energetic Magistrate who works the existing law to good purpose; who, under it, enforces the punctual payment of chaukidars' wages, and procures their attendance at the police stations at the stated times. But the able report now before the Council clearly shows that such results owe their existence to individual exertions, and they disappear with the zeal of the officer who called them into being. The consequence is that arrears of chaukidars' pay accumulate, and chaukidars, when they do not actually join the class of petty thieves, become lax in the performance of their duties. The regular police are thus cut off from their legitimate sources of information as to what is going on in the country around them, and in their turn they fail the Magistrates in the most important essentials of their duty. Any plan therefore which, by establishing a continuous and permanent agency for the payment of chaukidars, will give us some assurance of the regular and efficient discharge of their duty deserves from this Council a respectful hearing.

In his speech this day fortnight my hon. friend opposite dwelt on the onerousness and odium attaching at present to membership of the village punchayet. In most of what my hon. friend said on this point I agreed, but it struck me that he was inclined to take a somewhat optimistic view of the effect which this Bill would of itself have in remedying the abuses which he depicted. One of the greatest difficulties a Magistrate encounters in administering the Chaukidari Act is the difficulty of constituting a good punchayêt. At the time the Act of 1870 was passing through this Council there were hon. members who nursed the belief that the membership of the chaukidari punchayet would be an object of ambition to well-to-do raiyats, and that we should have eager canvassing for membership. Such a belief was sadly disappointed; and we now learn from the report of Mr. Munro's committee that appointment to a chaukidari punchayet is universally regarded as a calamity. The reasons given for this result are two, and they lie on the

surface: first, there is, as Mr. Garrett has stated, the antipathy inherent in our common human nature to undertake invidious responsibilities. In the second place, there have been, as Mr. Munro's report points out, defects of administration. The antipathy we cannot altogether overcome, but the faults in administration we assuredly can. I remember an instance of a gazetted officer of Government—a Deputy Magistrate—who had been deputed to establish chaukidari punchayets in certain villages. This officer spent his time at the neighbouring police outpost and sent a police officer on Rs. 10 a month to select a punchayet. The police officer made hay while the sun shone: he put up to the highest bidder, not the membership, because for that he would get no bid, but the exemption from membership. Thus all the well-to-do people—those from among whom the members should have been chosen—secured their exemption, while poor and uninfluential people were selected to form the punchayet. The consequence of course was that these poor men, when they came to assess the rate, not to speak of collecting it, were scoffed at and hustled; that the police officer who had made these appointments reported the punchayet as negligent; and that they were accordingly forced to make good the arrears. Is it a cause for wonder that those poor men were not enamoured of the dignity and advantage attaching to membership of the village chaukidari punchayet?

Now I venture to say that no hon. member of this Council with knowledge of rural Bengal will deny that this case is only a sample of what has often occurred in every district into which the Act of 1870 has been introduced. How are such abuses to be corrected and prevented? Not certainly by this Bill, and not by any enactment which this Council can pass. The true remedy is of course the growth of honest public spirit and patriotism among the people under the influence of those progressive and civilising ideas so worthily represented by my hon. friend to my right, whom we all cordially welcome to this Council chamber. This, however, must be the work of time: and meanwhile there is nothing for it but to rely on the action of our local officers in the selection of the best villagers to the punchayet. From this point of view it is worthy of consideration by the Select Committee on this Bill whether any punchayet shall be deemed to be finally constituted until the District or Sub-divisional Magistrate has visited the village and satisfied himself by personal inquiry that the social position and influence of the persons nominated to the village punchayet are such as entitle them to membership. In section 3 of the Act which it is now proposed to repeal, there was a provision that an officer exercising magisterial powers should personally explain their duties to the punchayet before they undertook them. I do not find that this provision is reproduced in the Bill now on the table; but I would now go further, and by imposing on the Magistrate or Sub-divisional Officer the duty of appointing the punchayet do as much as can be done to secure good men. There is indeed a passage in paragraph 32 of the committee's report which would seem to indicate that even personal selection by the chief executive officer of a district will not secure an efficient punchayet, but upon this point the committee's inference has been pushed too far.

With punchayets well selected and relieved from the invidious duties of collecting the village assessment, and with the payment of the chaukidars' wages guaranteed by the other provisions of this Bill, a very great advance will have been made towards securing a trustworthy body of village watchmen. But I cannot conceal from myself the fact that even with that most desirable result secured, the police administration of these provinces will yet stand in need of great improvement. The question of the pay and position of police officers must sooner or later be seriously considered: for as long as an officer in independent charge of a police outpost, with jurisdiction among many thousand people and numberless opportunities for unchecked misconduct, receives as a rule no higher pay than Rs. 15 per month, so long will our police administration remain unsatisfactory. This is not the place nor the time to dilate upon this subject; but I feel bound to declare my conviction that no measure of chaukidari improvement can have its full effect if unaccompanied by an amelioration in the position of the regular police. I believe I shall be borne out by the unanimous opinion of native and European residents in the interior who have experience of the regular mofussil police that the question of improvement in the *personnel* of the police force merits earnest attention. This is my opinion, not formed to-day nor yesterday, but the result of 20 years' mixing with the people, under circumstances favourable to the formation of an impartial judgment upon the matter. There is only one way in which the improvement can be effected, namely the removal of police officers from temptation to err. We must pay them better than we now do, and we must endeavour to attract better men to the police service by opening to them a better career than they now have.

I have, Sir, been an attentive reader of the luminous discussions which in another place have recently occurred upon our fiscal system, and I marked the force and ability with which proposals were urged to exempt our trade from the few restrictions upon it which now remain. No doubt impediments in the way of trade are objectionable; but nothing in the world of politics and government can be considered absolutely on its own merits. Everything is relative. It is from this point of view that I would suggest the consideration whether such imperfections as now remain in our fiscal system can produce such injury as attends on the existence of an underpaid yet very powerful police force. This question of reform in the quality of the police force is therefore a matter of urgent necessity. Your own tenure of office has been signalised by achievements which are too great to be properly estimated at the present time, and it was impossible for you to attend to this question, immersed as you have been in great affairs from the time of your assumption of your high office in Bengal. Even had the time and opportunity been auspicious, an impoverished treasury would have precluded you from effective action But our finances will not always be in a depressed condition; already competent men discern signs of reviving trade. I can only express my earnest hope that when prosperity again shall smile upon the Bengal finances, and when it becomes again a question of remitting instead of

imposing taxation, the improvement in the position of our mofussil police will claim and receive at the hands of the Government considerate and preferential treatment Unless this is so, I cannot foresee for the present measure that extended sphere of real usefulness which I should wish.

The Hon. Mr. Anundo Mohun Bose observed that he was not in a position to agree with all the remarks which fell from the Hon. Mr. MacDonnell, but he felt it his duty to say that he listened with great pleasure to the several observations which he had made with regard to the urgent need of reform in the system of police administration. He also agreed with the Hon. Mr. MacDonnell in thinking that it was not in the provisions of any particular Bill, but in the growth of honest public spirit, that the true remedy for several of the evils complained of in the present administration of the Chaukidari Act would be found. It was because he felt that the growth of public spirit would be retarded and not accelerated by the provisions of this Bill that Mr. Anundo Mohun Bose could not regard this measure as a satisfactory one. He believed that it would be by increasing the power and the dignity of the village punchayets, and not by curtailing their responsibilities, that a real stimulus would be afforded to the growth of public opinion. He drew attention to some of the broad questions of principle underlying the alterations proposed to be made—alterations which appeared to him to be in a retrograde direction. As Mr. Westmacott in his able note of dissent pointed out, the real question at issue was, whether the village chaukidars in the future were to be the police of the people or the police of the Government. The Act of 1870, which His Honour the President himself introduced into this Council, proceeded deliberately on the principle of recognizing the existing state of affairs, and not of introducing a revolution in the rural economy of the Province. It was perfectly true that in the attempts at legislation that had been made previously to the Act of 1870, in Mr Ricketts' Bill of 1859, in the suggestions in the draft Bill of Mr Hobhouse in 1863, and in the proposals of Mr. McNeile in 1866, a different direction had been indicated, and the principle of centralization, of placing all authority in the hands of the District Magistrate, had been more or less recommended; but even at that date there was such a strong opposition, he was happy to say both official and non-official, to proposals of that description, that all those recommendations came to naught; and in the Committee of 1869, of which His Honour was a member, a Bill was prepared which deliberately recommended the opposite principle. But now it seemed to Mr. Anundo Mohun Bose that in many important points that fundamental principle was to be departed from, and he was sure that the Council would agree with him that unless necessity was proved—and there was no alternative found by which the defects in the practical working of the present system could be obviated—these alterations should not be accepted.

First, with regard to the appointment of village watchmen, which, under the present law, was vested in the punchayets. Under the Bill it was proposed that the nomination should remain with the punchayet, but that the appointment should be made by the Magistrate. With regard to that proposal, which

was one of the corner stones of the Bill, he remarked that in the report of Mr. Munro's Committee, he did not find any case made out for an alteration of that description. It was not found by the Committee that the class of chaukidars appointed by the punchayets was an undeserving class of persons; and secondly, he remarked that appointment by the Magistrate would virtually mean appointment by the police. Even as regards the appointment of members of the punchayet, the Magistrate had necessarily to depend very largely on the police, and the Committee pointed out the evil effects of that necessity, having regard to the variety of functions which the Magistrate had to discharge. In the case of village watchmen, the Magistrate would have still more largely to depend on the police, for if it was impossible that the Magistrate in the course of his visits should have some knowledge of the leading men of the village, it would be still more impossible for him to have any knowledge of the class of people who would be appointed chaukidars; and under those circumstances Mr. Anundo Mohun Bose submitted that the Magistrate would have almost entirely to depend upon the police, and it was not desirable that the police, and particularly the police as they were constituted, should have this additional power entrusted in their hands.

Then the next matter of even greater importance in the Bill was the creation of a new agency for the collection of the assessments made in the various villages. It was proposed that tehsildars appointed by the Magistrate should have charge of circles consisting ordinarily of 25 villages, and would be responsible for the collections in those villages. He submitted that this would be introducing a direct Government tax-gatherer, armed with all its authority and going from door to door and hut to hut, amongst an ignorant and helpless peasantry, the result of which he apprehended would be a great deal of oppression of the people. At present the villages had to pay for their chaukidar, but at any rate the pill was gilded for them, for the actual work of collection was in the hands of their fellow villagers, who might be expected to show them some consideration, and there would at least be the check of the village public opinion upon them. But those restraints would be absent in the case of tehsildars, who would be under the necessity of collecting the dues. He submitted that the evils which were said to exist could be remedied without an innovation of this undesirable kind; but he would go a step further and say that even if they could not be remedied, of the two evils he would rather prefer the present remissness of collection and delay in the payment of the chaukidars' salaries—for that was all that was urged—than have the other evil of the tax-gatherer going from hovel to hovel and collecting from each his quota, and perhaps not unfrequently a good deal more. A great deal had been heard in this country, in connection with the fiscal measures of Government, of the evils of direct taxation; not necessarily attendant on the system, but under the circumstances of the country; but when an unsympathetic Government tax-gatherer, with all the powers proposed to be conferred on him, and who must render his account at a certain time, went from house to house to collect the tax, it must necessarily open the door to a great deal of

oppression and create discontent amongst the masses. Mr. Westmacott suggested in paragraph 12 of his note certain means by which this duty of collection could be rendered far less difficult, and the office of punchayet would be rendered far less unpopular than at present, viz. by the delegation to servants of the duty of collection, an increase in the remuneration of the collector, and the assistance of the Magistrate being given, if required, in enforcing payment by defaulters. This would go a great way, perhaps entirely, to remove the evils which had been found in practice to exist under the present system. He would suggest that this remedy should be embodied in the law, and he believed that this, with certain other measures which might be devised by the Select Committee, would remedy that particular evil.

The next important innovation or alteration in the law was the creation of another office bearer, and that was the circle sirdar. He submitted that would be even more unbearable than the tehsildar. He did not find in the report of the Committee any necessity therefor or recommendation made for that appointment. The circle sirdar would be appointed by the Magistrate, and would be constituted a sort of centurion having 25 villages under his control. His work would be to go to every village to report on the work of the watchmen, and to inform the police how the watchmen had been performing their duties. He apprehended that the villagers, who were now comparatively happy in not receiving too many visits from the police, would then be subjected to the visits of one who would really be a sub-agent of the police, and oppression would follow in the wake of visits of that description. He pitied the unfortunate villagers, whose watchmen would be watched by this functionary drawing the splendid pay of Rs. 8 a month. It had been said by the Hon. Mover that as regards the detection of crimes committed in villages additional agencies should be created, and that the punchayets and village watchmen had failed in their duty; but he found that all the Committee said—and in this they were unanimous—was that they expressly refrained from indicating any opinion on that point. In paragraph 39 of their report they said:—"As to the influence which the punchayets have had in securing more punctual reporting of crime, it is impossible to come to a definite conclusion without much more lengthened enquiry than we could afford to bestow on the subject;" and, so far as Mr. Anundo Mohun Bose had been able to discover, the only justification for the appointment of the circle sirdar lay in the fact that crime had not been reported, but he did not find that that had been made out by the Committee.

Then, with regard to the financial aspect of the question, the hon. member, in asking leave to introduce the Bill, said that the proposals in the Bill would have the effect of adding Re. 1-2 or thereabouts to the sum now assessed for the payment of the village chaukidar; that at present ordinarily Rs. 4 had to be levied from the villagers to make up the pay of the chaukidar; and that dividing the additional sums of Rs. 18 and Rs. 8 by 25, it would entail an additional assessment on each village of Re. 1-2. In the first place, Mr. Anundo Mohun Bose apprehended that the estimate—as estimates of all

departments sometimes are—was likely to be exceeded. He thought it would be difficult on the pay of Rs. 18, including contingencies, to secure the services of a tehsildar who could be trusted to make the collections honestly without levying black mail from defaulters; but taking the figures as they were given, this additional Re. 1·2 meant an increase of 28 per cent. on the present assessment. Where the pay of the chaukidar was Rs. 3, as in Behar, this additional sum of Re. 1-2 meant an increase of 38 per cent. on the present assessment to which the villagers were subjected. No doubt it would be possible for the Hon. Mover to show, by dividing this additional sum amongst the number of houses, that it really meant the addition of a few pies a month to each assessment, but it should be remembered that the Council was dealing with people whose income would very often be in pice and not rupees—in fact, the copper currency of the realm would be the measure of their earnings. That therefore was an addition which would be sensibly felt, and on this point the Council had the testimony of the Bill itself, in which there was a clause providing that, when the assessment on any person amounted to 2 pice or less, he would be altogether exempted from the tax; therefore, even 2 pice was a very appreciable amount in the financial budget of most of these people. Under these circumstances, the additional sum now proposed to be raised would really entail a sensible addition to the assessment. And there was this special feature about this increase in assessment, to which he would beg to draw the attention of the Council, that it would be accompanied by a curtailment of the rights of the people as represented by their punchayets. If, in order to obtain the boon of popular rights and to march on in the path of local self-government, it was necessary for them to bear this additional burden of taxation, no doubt that would have been a strong element to take into consideration in reconciling them to its pressure. But so far from there being any advantage gained, the village police, instead of being more dependent on the villagers, would be less dependent upon them, and would be centralized to the extent provided in the Bill. Thus while the rights of the villagers were to be curtailed, they were at the same time asked to bear additional taxation amounting to 28 and even 38 per cent on the present rate.

There was one other alteration proposed in the Bill which he would notice. He referred to clause 7 of section 28, which defined the duties of village watchmen. Under the existing law, clause 7 of section 39, the chaukidar was required to obey the orders of the punchayet in regard to keeping watch and other matters connected with his duties. But the Bill provided that in all matters connected with the prevention and detection of crime the village watchman was to act generally under the orders of the police officer in charge of the station within the limits of which his village was situated. And further, by section 71, the District Superintendent of Police, under the general control of the Magistrate of the district, was empowered to fine, suspend, and, with the sanction of the Magistrate, to dismiss any village watchman who might be guilty of any misconduct in his office or gross neglect of his duty. This was transferring

the almost complete control of the village watchmen from the hands of the punchayet to the police authorities, but he submitted that no necessity had been shown for this proposed change. On the contrary, Mr. Westmacott pointed out that it would really be impossible, even if the members of the regular police force were to be retained in the villages, for them to be independent of the local influence of the zemindar or of the ryots, whichever might happen to be the preponderating party, as the village chaukidar was now.

These were some of the important matters to which Mr. Anundo Mohun Bose had felt it to be his duty to draw the attention of the Council at the present time. He would beg to impress upon them that this Bill, in the alterations which it proposed, certainly went in a direction contrary to that in which the Council had been marching in conferring the boon of popular rights. It would be for the Select Committee to consider whether, on the contrary, the village punchayets should not be made more independent, whether, as in carrying out the system of local self-government in the appointment of union committees, a competent officer should not be delegated to carry out the law by getting a proper set of men elected by the villagers themselves, whether their position should not be made more honourable by giving them substantial responsibilities over the village police and making them less liable to interference by the regular police. He submitted that these were matters which ought to be taken into consideration; and he ventured to hope that in the Bill, as it might be finally accepted, some of the objectionable features to which he had alluded might be eliminated, and that an attempt might be made to link it to the system of local self-government and make it a means by which the progress of the people might be further secured.

The Hon. Rai Jai Prokash Lall Bahadur said:—From time immemorial the village watchman has fulfilled a well-understood function in the rural economy of the country. Just as the potter and blacksmith, the representatives of the industrial phase of the village community, have supplied the wants of that community and been allotted a specific share of the village lands, so has the watchman in the majority of cases been awarded a certain area, and in certain cases a quota of the produce of grain, for his maintenance.

This arrangement was sanctioned by Government, and the chaukidari lands were reserved as public assets by Regulation I of 1793. The advantages derived from this arrangement were very great; it made the chaukidar a component unit of the little society of agriculturists; a sympathiser with them in prosperous seasons, and a fellow sufferer in the season of adversity. The Act VI of 1870 was enacted with a view of improving the condition of the village watchman, but it is now said that that Act has not fulfilled the expectations with which it was passed, although it is admitted by the Committee appointed to report upon the working of the Act that much improvement has of late been made in the payment of the salaries of the village watchman. I ask, has the time arrived that it can be said that the experiment has failed so as to necessitate a fresh legislation? The Government ought to

give a fair trial. As far as I am aware not a single case has been brought to light to show that serious crimes have been concealed more frequently now than before. The complaint that has found expression in the report of Mr. Munro's Committee is almost the same as that which was made in 1856; and perhaps before. The fact is, that the want of punctuality in the payment of the salaries of chaukidars is not due to any special defect in the system. It is due to the defective constitution of punchayets. Section 3 of Act VI of 1870 provided that an officer exercising the powers of a Magistrate in personal communication with the residents of the village will appoint a punchayet. This has not hitherto been done, as will be observed from the report made by the Committee. It seems to us that in selecting men, too much attention was paid to the educational acquirements of members of punchayets, and that well-to-do influential, but illiterate raiyats were passed over in favour of men who had really little influence in the villages, because they could read and write. It is clear that local influence was not at all enlisted in the administration of the village police. The Magistrate made over the duty of selection to the Police Inspector, and the latter to his Sub-Inspector, and so on till the constable of the beat selected a punchayet out of the men with whom he was familiar, and whom he wished to enlist. Under the circumstances, it is not surprising that that experiment did not yield more mischievous results than was at first expected. I repeat, therefore, that it is not considered necessary to repeal the existing Act by introducing a new system, and I do condemn the change which will undoubtedly be calculated to render the chaukidari system more unpopular. The provisions of the existing Act should be fully enforced, but if there should be no reformation still, it will be time to pronounce a verdict, and think of the necessity of a change in the law. As to the absolute need of early and correct reports of crimes, births, and deaths, I am sure there would then be very little cause for complaint. I feel emboldened now to ask the Council to pause by reason of the introduction of an Act which will bring about a healthy change in the mode in which the social and the administrative forces of the country have hitherto been connected with each other. I mean the Local Self-Government Act. In almost all areas covered by villages of importance, there should be established Union Committees, and I am confident that the establishment of these Committees would have a more salutary effect upon the village community throughout the length and breadth of the country. By this they would learn to acquire habits of cheerful co-operation with the administration, and would also be more attentive in the discharge of their duties towards the Government.

I must confess, viewed by the light of the principles which were recently so forcibly proclaimed as to the advisability of adopting a policy of Self-Government, that it is most essential that the people should be taught to manage their own affairs. The Bill seems to be wholly a retrograde measure. We are about to launch a scheme of modified local autonomy, and we are, at the same time, in one of the most vital matters which concerns the rural population, imposing upon the people an elaborate machinery of executive interference. Not only

is there to be executive interference, but increased taxation, and a more harassing and irritating mode of collecting the tax.

The Hon. Mr. Garrett said he quite recognized the importance of having a strong punchayet, and, with reference to the objection brought forward by the Hon. Mr. MacDonnell, he observed that the provision in the law that the punchayet should not be appointed until the Magistrate had personally visited the village and explained the duties of the punchayet was left out from the Bill, because it was not carried out in practice; he would, however, be perfectly willing to introduce again that provision with some modifications. With regard to the objection of the Hon. Mr. Anundo Mohun Bose, he quite admitted that the present Bill was to a certain extent a retrograde movement. It was found that a step had been made in a wrong direction, and it was now considered necessary to resile from the false step. The expectation when the Act was passed was that when the village police was placed in the hands of the villagers themselves, they would loyally assist in the prevention and detection of crime, and see that the chaukidar was duly paid. The experience of local officers who had anything to do with the detection and punishment of crime was that the punchayets had not loyally co-operated with the regular police in the detection of crime, especially such crimes as the villagers very often wished to hush up; and certainly the chaukidars had not been regularly paid. It was only by the interference of the Magistrate to a degree which was not altogether warranted by the Act that the chaukidar had been more regularly paid. Then, coming to the more detailed objections which had been made, in the first place, it seemed that the hon. member was under some misconception as to the idea that the nomination of the chaukidar would be in the hands of the police. The Bill provided that the chaukidar should be appointed by the punchayet, and that the Magistrate, where the nomination was not an unfit one, would be bound to respect it, and the police would only be called upon to nominate the chaukidar where the punchayet would not nominate a chaukidar, or nominated one who was obviously unfit to perform the duties. Then, as regards the collection of the tax, the hon. member spoke of the tehsildar, on small pay, being let loose on the villagers and oppressing the people but he entirely omitted to consider the case of a chaukidar who did not receive his wages with regularity, and was driven to petty crime to find means of subsistence. At the suggestion of an officer of great experience in these matters, the appointment of circle sirdars was recommended, and it was intended thereby to provide some more efficient means of seeing what work the chaukidar did, and whether there were any complaints on the part of the villagers against him. Then, as regards the financial question, no doubt, some small additional tax would be imposed on the village; but as the incidence of the tax would not amount to more than 82 annas on the average for every 100 houses, Mr. Garrett could not think there could be any cause to complain. Then the hon. member had said that the chaukidar, even when he was nominated or controlled by the

police, would never be free from the local influence of the zemindar or of the punchayet. He thought, however, that such a system would make the chaukidar a little more independent of village influences and more amenable to the influence of the regular police.

HIS HONOUR THE PRESIDENT said:—I should like to say a few words before this Bill passes to the Select Committee. I have listened with interest and attention to the speeches which have been made, especially to those of my hon. friends, the native members of the Council. Mr. Anundo Mohun Bose, in referring to the history of the measure, has alluded to the fact that I was in charge of the original Bill in 1869, which was eventually passed into law as Act VI of 1870; and that this was the first attempt at the reform of putting upon a better system the rural constabulary in Bengal; and he has referred also to the circumstance that, in the face of considerable opposition, the Government of that day accepted the position that an effort should be made to constitute not exactly a representative system, but a more popular system, under which the village community of each village should be responsible for the appointment of the chaukidar of the village, who should be considered the servant of such villagers. The Act of the time, in conferring on the villagers that privilege, rightly, I think, imposed on them certain duties. There is no position which does not carry with it its responsibilities. We conferred upon them for the first time in Bengal the privilege of nominating chaukidars, and we required that, instead of the Magistrate interfering in the appointment of the chaukidar, the villagers should appoint their own man. But we required, in return for that privilege, the performance of duties which, if they were in a certain sense important, at the same time were very light. They had to assess themselves to small quotas of contribution which should go to make up the monthly pay of the chaukidars; to see that the chaukidar was regularly paid, and to see, which was also in some sense a privilege, that the chaukidar did his duty. After listening to the speeches of the hon. native members, I could not help feeling that they spoke as if the fifteen years which have passed since the Act of 1870 came into force must be entirely ignored. The fact is that fifteen years have given us a great deal of experience of the working of the Act; and no one, I think, can accuse me of being hostile to the system which was then introduced, seeing that it was introduced at my own instance, and I should be glad to keep on the same lines now. But from the report of Mr. Munro's Committee and from reports throughout the country, it is beyond any question that the principle upon which legislation was then founded has to some extent failed; that the chaukidar has not been paid regularly, although there has been an improvement in that respect on the practice which obtained before 1869. It is manifest that if the chaukidar is not regularly paid, instead of his being on the side of law and order, he at first becomes indifferent to the performance of his duties, and eventually becomes associated with crime and disorder. Therefore, it is essential to the well-being of the country, apart from the consideration of the chaukidar's rights, that the village watchman should be in the receipt of

regular payment. Then, when we come to seek the reason for their not being regularly paid on a system which should be so light and easy of application—and I think this is a point which is brought out with great clearness and force in the report of Mr. Munro's Committee—we find that it is because the punchayets dislike the duty of collecting the assessment, which brings them into hostility with their fellow villagers. Every form of inducement, and latterly some form of pressure, has been brought to bear upon them to accept that position, but without effect. Reference has been made in the course of the discussion to the fact that in certain cases—a prominent instance of it has been mentioned by my hon. friend Mr. MacDonnell—the defects in the operation of the law might be traced to the carelessness in appointing the punchayets. That might have been true in some cases, but I don't think it is the general practice, and I know of numerous instances in which a great deal of trouble has been taken by Magistrates to make the Act a success. Notwithstanding such efforts, there is one point in which it has absolutely failed, and that is in getting the villagers to accept, cordially and willingly, the duty which brings them into odious contact with their fellow villagers. They dislike the duty of having to assess and levy a tax; and further they dislike the office, because eventually, if they cannot collect the contributions, the law requires that they should pay it; and if there is one thing which has been established more than another, it is that the punchayet system, left to itself, is unworkable. We are obliged then in some sense to go back, and we go back to this extent. We still recognise the village watchman as the servant of the village, and we leave the nomination of the chaukidar in the hands of the punchayet; but the confirmation of the appointment rests with the Magistrate of the district. In 99 cases out of 100, the Magistrate will confirm the nomination of the punchayet, but the Bill provides that external control must be established to secure the interference of the Magistrate where such interference is necessary; and I don't think a just complaint can be made as to this being a retrograde measure, when we find after full experience the necessity for an intermediary agency, which will help the punchayet to perform its duty. The direction in which assistance is proposed to be given is chiefly in the matter of enabling the punchayet to collect the assessment which they will still make. When they have made the assessment, it gives them assistance in the form of a tehsildar, whose duties will not be confined to a single village, but to a group of villages; and that plan has been adopted because, in the application of the present Act, we know that in certain instances punchayets and the villagers themselves were very glad to accept the assistance of a *bakshi* or tehsildar, and it was thought that that system might be extended with advantage to all the country. If you once establish a good system for securing the regular payment of chaukidars, you go a long way to improve the condition of the village constabulary.

I heard with some interest the remonstrances which fell from Mr. Anundo Mohun Bose regarding the proposed appointment of a circle sirdar, and my hon. friend Mr. Garrett will bear me out that I agreed with a good deal of hesitation to the introduction of this new officer. It adds to the taxation

of the village, a circumstance which I am very much inclined to deprecate, and it introduces a new feature in the system which I think may be avoided. The duties of the circle sirdar are proposed to be those of inspection, to go round the villages within the circle, and to see that the chaukidars are doing their duty and are being kept up to their mark by the punchayet. My feeling is that probably, in the first instance, it would be better to abandon the introduction of this new officer, and to depend upon the regular police for this work, so avoiding the additional charge which this proposal would involve. But this is a point which the Select Committee can fully consider.

A suggestion has been made by, I think, both the native members of the Council who spoke, that probably a solution of the difficulty might be found in connecting the village police system with the system of Local Self-Government now under trial. If I may express an opinion on the point, I would say that we are in the very infancy of Local Self-Government in the mofussil. I don't speak of municipalities; that is a well-established and well-understood system, which is certain to develope into larger efficiency; but as to Local Self-Government in the interior it is at present in its introductory stage, and perhaps our successors fifteen years hence—I hope not—may be discussing the principle of Local Self-Government as applied to unions and sub-divisions, with something of the same feeling of disappointment with which we are now discussing, fifteen years after the introduction of the Village Chaukidari Act, the unfortunate failure of village punchayet institutions. My hon. friend Mr. MacDonnell perhaps travelled a little out of his course in alluding to what has passed in another place in connection with fiscal matters, and the difficulties surrounding the Government in its financial position. No one would rejoice more than myself if we had more money to apply to the improved administration of the country, and no one in my position who had such resources in his possession would hesitate to apply a portion of it at once to the amelioration of the condition of the regular police force. From my experience of the last twenty-five years, when I look back to the days of the police under the old daroga in the mofussil, and compare it with the *quasi*-military constabulary of the present time, and the practically efficient way in which they discharge their duties in the face of many difficulties, I cannot help feeling that very considerable improvement has been effected in our police administration; though I have little doubt that with a better educated staff and better pay still greater improvement could be realized. But I must remind my hon. friend that in connection with the financial measure recently introduced was the paramount question of financial retrenchment, which may, perhaps, have to be carried out in Bengal, where we need more money in every branch of the Administration. I am frequently reminded that better pay and pensions should be secured for the police; but instead of seeing an early day when such advantages could be attained, I am afraid that, under the enforcement of economy, we shall have great difficulty in holding our own, and maintaining the present standard of efficiency.

The HON. MR. MACDONNELL remarked, by way of explanation, that it was not his intention, in the case to which he had alluded, to make any

imputations on the conduct of the Magistrate of the district. In that case the Magistrate deputed a Deputy Magistrate to perform the duty, and it was due to the omission of the Deputy Magistrate to do what was required that the failure which resulted ensued.

The motion was put and agreed to.

The Bill was read accordingly.

The Hon. Mr. Garrett also moved that the Bill be referred to a Select Committee consisting of the Hon. Mr. Reynolds, the Hon. Mr. MacDonnell, the Hon. Moulvie Abdul Jubbur, the Hon. Mr. Cruickshank, the Hon. Mr. Anundo Mohun Bose, and the Mover.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 13th February.

By subsequent order of the President the meeting of the Council was postponed to a day of which notice will be given.

The Council met at the Council Chamber on Saturday, the 20th February 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K C.S.I., *presiding*.
The Hon. G. C. Paul, C.I.E., *Advocate-General*.
The Hon. H. J. Reynolds, C S.I.
The Hon. A. P. MacDonnell.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. H. L. Harrison.
The Hon. Rai Jai Prokash Lall, Bahadur.
The Hon. G. Irving.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

NEW MEMBER.

The Hon. Mr. Harrison took his seat in Council.

CANOONGOES AND PATWARIS.

The Hon. Mr. MacDonnell, in moving that the Hon. Mr. Cruickshank be appointed to the Select Committee on the Bill to amend and consolidate the law relating to Canoongoes and Putwaris, said:—The reason why I make this motion is that it is understood that the Hon. Ban Behary Kapur will be unable to attend the meetings of the Select Committee, and that we hope to obtain valuable assistance in discussing the Bill from my hon. friend Mr. Cruickshank because of his connection with the great indigo industry in Behar. I may take advantage of this opportunity to state briefly the course which I propose to adopt in connection with the Bill. Hon. members will recollect that the Bill was introduced into this Council on the 14th February last, on which occasion a debate was raised on its principle and a division taken: the result of the discussion was favourable to the principle of the Bill, which was then referred to a Select Committee. The Select Committee has not yet met for two reasons. The first reason was that it was the wish of the Bengal Government—a wish to which I gave expression in my speech when introducing the measure—that the fullest opportunity should be afforded to every person interested in the measure to criticise its provisions. The next reason was that Her Majesty's Secretary of State had expressed a wish to consider the Bill and the arguments which were adduced in support of it. More than a year has now elapsed since the Bill was introduced into the Council, and during that time we have received a large body of very valuable criticisms upon it from officials and non-officials, and the Secretary of State has also considered it. I consider that the main principles of the Bill have passed satisfactorily through

the ordeal to which they have been exposed, though the necessity for modifications in details and of a cautious application of the principles themselves has come home to us through the criticisms to which I have referred. These are points which I hope to lay before the Select Committee for thorough discussion. It now becomes a question of proceeding with the Bill, and what in this respect I now propose to do is to invite the members of the Select Committee to meet twice a week until we are able to present our report. This I am in hope that we shall be able to do in about three weeks' time.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 6th March 1886.

By subsequent order of the President the meeting of the Council was postponed to Saturday, the 13th March 1886.

The Council met at the Council Chamber on Saturday, the 13th March 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., *presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. H. L. Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. Rai Jai Prokash Lall, Bahadur.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

AMENDMENTS OF THE CALCUTTA AND SUBURBAN POLICE ACTS, 1866.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to amend the Calcutta Police Act, 1866, and Act II (B.C.) of 1866 be taken into consideration in order to the settlement of the clauses of the Bill. He said:—The Committee have made no change of any great importance in the Bill as it was introduced into Council. My hon. friend (Moulvie Abdul Jubbar) brought to the notice of the Council at the last meeting, when this Bill was under consideration, that it might be necessary to extend its operation to the Suburban Police Act as well as to the Calcutta Act; and on enquiry it appeared, as regards section 2 of the Bill, that the hon. member was perfectly right, and that it would be necessary to make the alteration which he had proposed, and this had now been done.

The only other change which has been made in the Bill is the reduction of the term of imprisonment to eight days in section 2 and to three days in section 3, and I think that this change will commend itself to the approval of the Council.

The motion was put and agreed to.

The Hon. Mr. Anundo Mohun Bose moved that the following section be added to the Bill:—

"4. After section 72 of the said Calcutta Police Act, the following words shall be added—If the name and address of such person be unknown to such police officer, and cannot be ascertained by him."

He said:—The matter is a simple one, and I trust the Council will see its way to readily accept it. Act IV of 1866 and Act II of 1866, both passed by

[*Mr. Anundo Mohun Bose.*]

the Bengal Council, relate to the police respectively of Calcutta and the Suburbs. Both these Acts dealt with similar subjects and were drawn on much the same lines; and both of them gave to police officers, in case of their actually seeing offences against the Act being committed, the power to arrest the persons committing such offences. But there is a very important difference in the provision which gives this power to police officers in the two Acts. In the Calcutta Police Act, section 72 runs thus—"Any police officer may arrest without a warrant any person committing in his view any of the offences described or referred to in this Act." Section 43 of Act II of 1866, which is the corresponding provision in the Suburban Police Act, reads thus—"Any police officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to such police officer and cannot be ascertained by him." The Council will thus see that there is an important safe-guard existing in the Suburban Police Act, limiting to some extent—and, I believe to a desirable extent—the power of arrest given to police officers, which does not exist in the Calcutta Police Act; and I am sure the Council will agree with me that it is desirable in a matter like this that there should not be one law on this side of Circular Road and a different law on the other side of it. This view has already been fully accepted, both by the Council and by the Select Committee, with regard to another provision in the Bill. The desire to secure uniformity in matters of this description was indeed so great that the Council to some extent went out of its way; inasmuch as this Bill as it was introduced simply related to the amendment of the Calcutta Police Act, yet the reference to the Select Committee was extended on the suggestion of my hon. friend opposite (Moulvie Abdul Jubbar) so as to embrace the amendment of the Suburban Police Act also, and thus make the law in the Suburbs similar to the law as it was proposed to be amended in Calcutta. I hope this will be sufficient to induce the Council to accept my amendment. But if it is necessary for me to go further, I venture to submit that, independently of reasons derived from a desire for uniformity, and independently of the weight to be attached to this amendment from the fact of these words being already in the Suburban Police Act, discussing the amendment purely on its merits, I think it will be considered desirable to safeguard, I won't say the arbitrary, but certainly the very extensive, powers of arrest possessed by a common police constable in the streets of Calcutta by some such provision as I have embodied in my amendment. I would ask the hon. members for a moment to consider what is the object of section 72 of the Act. I think they will have no hesitation in agreeing with me that the object is not that any person who is rightly, or it may be wrongly, supposed in the streets of Calcutta to have committed an offence against the provisions of the Act—and they are all petty offences punishable mostly with fines—should be needlessly subjected to the indignity of being arrested and taken to a police station, and there kept in the lock-up or discharged at the discretion of the officer in charge; but that the real object is to secure that the person who

is supposed to have committed an offence should be found when proceedings are taken before the Magistrate. That being so, I submit that a safeguard such as I have proposed is open to no objection, but is on the other hand very necessary and desirable. To give an illustration or two of my meaning. Suppose the Hon. Mover of the Bill were to return home after dark from a meeting of the Municipal Commissioners in the Town Hall, and his coachman had forgotten to provide himself with lamps, under this Act as it has been drafted, the hon. member would be liable to be arrested and taken to a police station. I do not believe for a moment that this would happen in the case of the hon. member; but if a police officer were to exercise the power of arrest vested in him by the Act, he would be strictly within his legal right. I might easily suppose various offences of this kind in respect of which, if only a constable chose to do so, he would be acting within his legal power in subjecting respectable members of the community to the indignity of arrest. I fancy the reason why there has not been an outcry in respect of this matter is because the police have not availed themselves more largely than they have of this power. I am aware of a case in which a lady, whose husband is a well-known gentleman, was taken in her carriage to a police station simply because her coachman had not provided himself with a light. I may just mention, that I am not responsible for the exact wording of the amendment. I am not sure that the words of the amendment are the very best in which the idea could be embodied, but I thought the safest and the most respectful course was to adopt the language which had already received the sanction of the Legislature in section 43 of the Suburban Police Act, rather than to accept the responsibility of expressing it in my own language. I mention this because it has been suggested to me by a very high authority on the subject, namely, the hon. member who is at the head of the police in Calcutta, that it would be better to leave out the words "and cannot be ascertained by him," as the retention of those words might imply that the police officer would be bound to go up and down the town in order to ascertain the name and address of the person whom he had arrested. But I do not understand the words of the Suburban Police Act in that sense, nor, so far as I am aware, have they ever been interpreted in that sense. I understand they mean "and cannot be ascertained by him" *then and there*, and that the result of such enquiry must be accepted. If the Council think any slight modification desirable, so as to prevent the words of the amendment being interpreted in any other way, I shall have no objection to adopt it, but it seems very necessary and very desirable that a clause of this kind should be inserted in order, legally and under the sanction of the Legislature, to prevent the possibility of the power of arrest being abused. I would suggest that perhaps the addition of the words "at the time" would obviate the possibility of an interpretation of the kind to which I have already referred. With those words, I would beg to recommend the acceptance of my amendment by the Council.

The HON. MOULVIE ABDUL JUBBAR said:—I second the proposal of the hon. member. I don't think it is necessary to arrest gentlemen who are known to

a police officer, or whose address may be ascertaind. Besides, all anomalies between the Suburban and the Calcutta Acts ought to be removed, and this is one of the anomalies which at present exists.

The Hon. Mr. Reynolds said:—I think I must leave it to my hon. friend, Mr. Harrison to say whether he, as head of the police in Calcutta, is prepared to accept the amendment proposed by the hon. member. It is an amendment which does not seem to me to be very desirable, and there is one consideration which I should like to put before the Hon. Mover of the amendment and the Council. The hon. member has justly remarked that the Calcutta and Suburban Police Acts deal with similar subjects, are drawn on similar lines, and were passed in the same session of the Council. But I have to observe that the Suburban Police Act was passed before the other Act, and I think that when we find that where in one Act one form of words was adopted, and that the Legislature very shortly afterwards, when dealing with a parallel subject, adopted a different form of words, we must suppose that they had some good reason for doing so. I have looked through the discussions of the Council, and I have found nothing to indicate why the change was made. But I think we are justified in assuming that the alteration was not made without some sufficient ground. I think that in a Bill of this kind, which is directed to the amendment of a particular section of an Act, which has been shown in practice to work imperfectly, and to require correction in dealing with such a section, it is undesirable to raise the abstract question of assimilating the procedure of the two Acts in respect of an entirely different matter in which the law, as it stands, has not been found in practice to be the subject of complaint, or the cause of any oppression.

The Hon. Mr. Harrison said:—As far as I am concerned, I do not think there is any objection to the spirit of the amendment. For, as a matter of fact, departmental orders have been issued to the police in Calcutta to the effect that they are not to arrest for minor offences of this kind persons who are known to them. And the very fact that the amendment was moved, not on the ground of practical inconvenience which has drawn public attention to the hardship of the present section, but on the ground of unifying the two Acts is, I think, sufficient to show that, so far as practical experience goes, there is nothing to necessitate an amendment of the section, as possibly there would be if the police had abused their powers. My objection goes entirely to the last words of the amendment, "and cannot be ascertained by him." As the hon. member pointed out, these words may be so interpreted as greatly to embarrass the police in the execution of their duty. I would like to leave out those words altogether, because even with the proposed addition of the words "at the time" they are still vague and embarrassing. For what steps must a police officer be obliged to take at the time? Suppose a person said—"I live quarter of a mile off, and if you come with me you will find that the address which I have given you is a correct one. Is the police bound to leave his beat and go to the address named? I have been very careful to enquire, and I could not find one single instance where there had been complaint, though the hon.

member mentioned one instance of a lady being taken to the thana. Still further, practically, there is no difference in procedure between the suburbs and the town. The same police force virtually exists in both Calcutta and the Suburbs, the same officers are at the head of the police, the Inspectors of the one force are frequently transferred to the other, as also the minor officers, although perhaps to a less extent. Can it be said that the words to which I have referred improve the section? On the contrary, they leave room for considerable misunderstanding; and evidently there is great difference between the moral effect of a section which exists in the Suburban Act, but has attracted no notice, and the same section when formally introduced into the town and attention to it thus drawn. Probably no long time would elapse before we should have complaints as to whether the police was justified in arresting a person on the spot. The police of the town are only a limited number, there being something like 170 beats in the whole town during the day-time, and if constables were taken off their beats to make enquiries regarding addresses, the beat will be left without any constable; therefore, for the efficiency of the force, it is extremely desirable that they should be in a position to act promptly, and not be required to make any enquiries. In the English Acts the general rule is that the offender is taken to the police station, unless he is known to the arresting officer. In that country there is nothing which puts on the police the burden of ascertaining the name and address of the person arrested, if not known. So far as argument for uniformity goes, I would refer to the general Mofussil Police Act, V of 1861, section 34, which provides that any police officer may take into custody without a warrant any person who, within his view, commits certain offences. Consequently at present, in the Police Act of the mofussil that power is given. At the same time, I wish it to be understood that I do not raise any objection to the provision being inserted in the law, provided the wording is so safeguarded that the police cannot be held liable to institute particular enquiries before arresting persons committing offences of the kind under discussion, whose names and addresses are not known to them.

THE HON THE ADVOCATE-GENERAL said:—If the trial for the murder of Mr. Justice Norman be referred to, I believe it will be found that the constable posted at the Town Hall swore that he did not know who the Chief Justice was. I am inclined to think that constables in this country have not the eyes, ears, and intelligence possessed by constables in England. I am therefore against adopting the general rule referred to by Mr Harrison in the English Acts. I would let the section stand as proposed to be amended, adding, if necessary, the words "at the time" or "then and there."

THE HON. RAI JAI PROKASH LALL BAHADUR supported the amendment. He thought the amendment, safeguarded the words proposed to be added by, was very necessary to prevent the unnecessary arrest of respectable and perhaps well-known persons.

The HON. MR. ANUNDO MOHUN BOSE said:—Practically, I understand there exists considerable agreement between the hon. member opposite

(Mr. Harrison) and myself. But there are certain arguments which have been pressed by him against the adoption of the amendment. One argument was to this effect, that no practical inconvenience has been experienced owing to the difference of language at present existing in the corresponding sections of the Calcutta and Suburban Police Acts. I have already referred to one instance, and I may privately give the name of the gentleman, who is well-known to the hon. member, whose wife was subjected to the indignity of being taken to the police station when the slightest enquiry would have satisfied the police officer that there was no necessity to take a step of that kind. I am aware that, under departmental rules, this large power given by law is attempted to be practically curtailed, but in spite of that abuses of this kind do occur; and in the second place, I would urge that the Legislature ought, by its own action and under its own authority, to remove any defective wording found in its Acts, instead of leaving the remedy to be provided by departmental orders. Then, reference has been made to the fact that the number of the police being limited, if we take the police officer from his beat to make such enquiries, the beat will be left without a constable. I submit that the words "and cannot be ascertained by him at the time" would be sufficient to prevent the inconvenience just referred to, because the constable would only have then and there to ascertain who the person is whom he had arrested. And we have the opinion of the highest legal authority to assure us that no other interpretation would attach to the words, and I have only to repeat that if these words are omitted, the police officer has simply to say "I don't know you," and the object of the amendment would be defeated; and there are many police officers to whom even your Honour is not perhaps personally known. Under these circumstances, I submit that the amendment, with the addition of the words "at the time" will be enough to meet the requirements of the case, and at the same time to prevent the possibility of any practical inconvenience in the working of the department. This Bill gives to the police extensive powers of arrest. As reference has been made to the mofussil, I may point out that under the Penal Code, if a man were to forge a valuable security, an offence punishable with transportation for life, even in such a case a police officer cannot arrest the offender, but he would have to take out a warrant from the Magistrate for that purpose. The Legislature thought it necessary to protect the liberty of person enjoyed by the subject in that way. Under these circumstances, I submit that the power of arrest ought to be safeguarded and restricted in the way proposed.

The amendment, with the addition of the words "then and there," was then agreed to.

VILLAGE CHAUKIDARI ACT, 1870, AMENDMENT BILL.

The Hon. Mr. Garrett presented the report of the Select Committee on the Bill to consolidate and amend the law relating to Village Watchmen.

HIS HONOUR THE PRESIDENT stated that the report of the Select Committee would be taken into consideration at the next meeting of the Council in order to the settlement of the clauses of the Bill.

VACCINATION ACT, 1880, AMENDMENT BILL.

The HON. MR. REYNOLDS presented the report of the Select Committee on the Bill to amend the Bengal Vaccination Act, V of 1880, and gave notice that he would move that it be taken into consideration in order to the settlement of the clauses of the Bill at the next meeting of the Council.

STEAM-BOILERS AND PRIME-MOVERS ACT, 1879, AMENDMENT BILL.

The HON. MR. REYNOLDS moved that the Hon. Messrs. Harrison and Cruickshank be added to the Select Committee on the Bill to amend Bengal Act III of 1879 (Steam-Boilers and Prime-Movers).

The motion was put and agreed to.

The Council was adjourned to Saturday, the 27th March 1886.

The Council met at the Council Chamber on Saturday, the 27th March 1886.

Present:

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., *presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. H L. Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. Rai Jai Prokash Lall, Bahadur.
The Hon. G. Irving.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

STEAM BOILERS AND PRIME-MOVERS ACT, 1879, AMENDMENT BILL.

The Hon. Mr. Reynolds presented the report of the Select Committee on the Bill to amend Bengal Act III of 1879 (Steam-Boilers and Prime-Movers).

VILLAGE CHAUKIDARI ACT, 1870, AMENDMENT BILL.

The Hon. Mr. Garrett moved that the report of the Select Committee on the Bill to consolidate and amend the law relating to Village Watchmen be taken into consideration in order to the settlement of the clauses of the Bill.

The Hon. Rai Jai Prokash Lall Bahadur moved as an amendment that the Bill as amended by the Select Committee be published in the local vernacular gazettes for the information of the public. He said that, considering the fact that the Bill vitally affected the entire rural population of Bengal, Behar, and Orissa, a vast majority of whom did not know English, or even know of the existence of the *Calcutta Gazette*, it was absolutely necessary in the interests of the public that the provisions of the amended Bill should be presented to them in their own language. The changes made by the Select Committee in the original Bill were sweeping and radical: in fact, the amended Bill was a wholly different measure from its predecessor, and it was but right that the people should know exactly the shape in which it now stood. They had, moreover, been under the impression that all the objectionable features of the original Bill had been removed; but although all felt deeply thankful to the Select Committee and the Government for the concessions so graciously made, he regretted that the amended Bill, if passed into law, would introduce a change which would really transfer the control of the village watch from the people to the executive administration. The hon. members were aware

that, under the system to be inaugurated by the Bill, the pay of the chaukidars would be disbursed by such officers as the Magistrate might appoint on that behalf, *i.e.*, in all probability the officers of the police department. Therefore, the regular police, as the department which would pay the salaries of the chaukidars, would be able to exercise over them an absolute control. It was all very well to say that the chaukidar would be under the supervision of the punchayet, but to all intents and purposes the real power would gravitate towards the Inspector and his Sub, and by a natural law would descend to the head constable and the constable. The procedure which the Bill substitute regarding the payment of chaukidars' salaries was, as he should show when he moved another amendment that stood in his name, wholly unworkable; and the tendency of the change would render the duties of the punchayet more distasteful to them than they were before, and the whole result would, he was sure, leave matters far worse than they had been. It was only proper that before a change so radical in its character was introduced—a change which, as it were, would revolutionize the present practice—the people should have an opportunity of expressing their opinions upon it. It might be said that if his motion was accepted by the Council, the Bill might not be passed this session. But a delay of eight or nine months was wholly immaterial: they were not confronted with a political difficulty or a social crisis; and if the Government should be pleased to agree to a postponement of the discussion of the Bill, no interest would suffer in the slightest degree.

The HON. MR. ANUNDO MOHUN BOSE in supporting the motion said he would be glad if the Council could see its way to accepting the proposal which had just been made; but he would wish also to avail himself of the opportunity to refer to some of the principal features of the Bill as it had now come before the Council for consideration. He entirely agreed with his hon. friend as to the extent and scope of the amendments made by the Select Committee, and also as to the objectionable character of its *one* proposal to make over the payment of chaukidars to officers appointed by the Magistrate. But before entering into that matter, it was his agreeable duty to bear testimony to the very important modifications in the direction of concession to public opinion which had been introduced in the Bill as it was originally laid before the Council in the course of the sittings of that Committee. When the Bill was introduced on the 30th January last, he ventured to object to six principal features in the Bill as it then stood. He ventured to object to the compulsory appointment of tehsildars or Government tax-gatherers; to the appointment of circle sirdars to watch the village watchmen and report on village crime; to the transfer of the appointment of chaukidars from the punchayets to the Magistrates; to the proposed increase of the powers of the District Superintendent of Police and of the district police generally over village watchmen; to the payment of the chaukidars at the thana; and lastly, to the proposed increase of taxation which was a necessary consequence of some of those proposals. He was happy to be able to say that, with one exception, every one of those grounds of objection had been fully and freely met by the Select Committee; and further that

the Select Committee had directed its attention not simply to the removal of those evils and the withdrawal of the proposed innovations of an objectionable character, but it also directed its attention to the examination of the existing Act, and to improving and strengthening the basis of the punchayet system in these territories. Perhaps the most important change in the existing Act which the Select Committee proposed to make in the Bill now before the Council was that in section 3 of Act VI of 1870. He could have wished that the recognition of the elective principle in the constitution of punchayets had been fully, and (if he might use the word) more formally made than happened to be the case in the wording of the section. But it was his duty to admit that, practically and substantially, at least in the vast majority of cases, the principle of election had been recognised by the Committee and embodied in this new section. Section 2 of the Bill laid down, in the first place, that it would be the duty of an officer exercising magisterial powers to proceed personally to the village and thereby remove the greatest blot that existed in the working of the present system by reason of the employment of the police for the selection of punchayets. But the section as proposed went further and provided that, except in certain special cases, the appointment was to be made in conformity with the wishes of the villagers themselves. MR. ANUNDO MOHUN BOSE understood the section to mean that in the vast majority of cases the selection made by the villagers would be approved. It was only when special reasons existed, and these would have to be specially recorded when they did exist, that the nominees of the villagers would be set aside.

HIS HONOUR THE PRESIDENT observed that there was an amendment in the notice paper on section 3. It would be very much better that the discussion of the question involved in that amendment should be deferred till the amendment came before the Council. They would never get to the end of the Bill if details, which were subject to consideration at a later stage of the proceedings, were discussed generally now.

The HON. MR. ANUNDO MOHUN BOSE said that he would reserve the further remarks which he had to offer until the time came for him to move the amendments of which he had given notice.

HIS HONOUR THE PRESIDENT said he must oppose the amendment moved by the Hon Rai Jai Prokash Lall Bahadoor for the republication of the Bill in the vernacular gazettes. The papers connected with this Bill had been for a long time before the public. It had been admitted by both the hon. members who had spoken that the Bill as it was introduced had been considerably modified, and that the amendments which had been made were all in the direction which those who opposed the original Bill desired. The report of the Select Committee had been for a fortnight on the table of the Council, and had been published in all the newspapers; and if the Bill in its amended form were now to be published and circulated throughout the country, they would never get to legislation at all. His Honour had no intention to pass the Bill into law at the present meeting of the Council. That ultimate motion he proposed to defer till the last meeting of the Council on the 10th April

[*Rai Jai Prokash Lall; Mr. Anundo Mohun Bose; Mr. Garrett; The Advocate-General.*]

next; therefore another fortnight must elapse before any final action could be taken. He therefore felt it his duty to oppose the motion, especially as the Hon. Mover of the amendment was present when His Honour announced that the Bill would be taken into consideration on this occasion.

The HON. RAI JAI PROKASH LALL BAHADUR said that he was willing to withdraw the amendment if the Hon. Member in charge of the Bill would agree to postpone the consideration of the clauses for a week.

The amendment was then put and negatived, and the original motion was agreed to.

The HON. MR. ANUNDO MOHUN BOSE moved that, in the second line of the last clause of section 2, for the words "this Act" the words "the Village Chaukidari Act" (or, if preferred, the words "Bengal Act VI of 1870 as amended by Bengal Act I of 1871") be substituted. This, he said, was a mere question of drafting, and he would leave the matter entirely in the hands of the Hon. Mover with the observations he was about to make. The clause said—"Provided also that in every village to which this Act has already been extended." The only doubt he felt was that the words "this Act" would be held to refer to this Bill when it passed into an Act. If, for instance, it became Act II of 1886, the language would refer to the extension of that Act, and not to Act VI of 1870; but that he believed was not intended by the Select Committee. The meaning was that after the passing of this Bill, in places to which the existing Village Chaukidari Acts, VI of 1870 and I of 1871, had been extended, a fresh appointment or election of the punchayet should, as soon as possible, be made, so that the new system might be brought into working order without delay; and that interpretation was further confirmed by the first section of the Bill, which provided that "this Act shall be read with, and taken as part of, Bengal Act VI of 1870 as amended by Bengal Act I of 1871," which showed that the expression "this Act" referred to this Bill when passed into law. Therefore, it seemed to him as a matter of drafting that the better course would be to provide that "in every village to which the Village Chaukidari Act (or Bengal Act VI of 1870 as amended by Bengal Act I of 1871) has already been extended," so that there might be no ambiguity as to the meaning.

The HON. MR. GARRETT said he could not accept the amendment. He thought that if the hon. member looked at section 2 of the Bill he would find that that section was to be substituted for section 3 of Act VI of 1870, and to form a part of that Act; therefore the words "this Act" in that section could only refer to the Act of which it formed a part.

The HON. THE ADVOCATE-GENERAL said he agreed in the construction put by the Hon. Mover of the Bill upon the words "this Act" in the last clause of section 2 of the Bill.

The motion was by leave withdrawn.

[*Rai Jai Prokash Lall; Mr. Garrett; Moulvie Abdul Jubbar; Mr. Reynolds.*]

The HON. RAI JAI PROKASH LALL BAHADUR moved the insertion of the following after the second proviso in section 3:—

"Provided also that, after the Magistrate has so sanctioned the names of such persons he shall, within a reasonable time, publish a list thereof in the village; and that no person's name shall be retained in such list to whose nomination one-third of the rate-payers of the said village shall, within thirty days after such publication, prefer objections in writing"

His object in moving this amendment was clear enough. The Magistrate, under the present system, which was maintained in the revised Bill, had to consult the wishes of the people before he appointed a punchayet. The alteration he proposed would accentuate the need for his acting in consonance with the sentiments of the local public. He would have to publish his list of nominees to the village, and within a specified time objections were to be preferred by the villagers. If the people came forward and declared their opposition to the choice of any particular person, he ought not to be shouldered upon the village community. He ventured to say that the condition inserted in the amendment, that the adverse votes must represent fully one-third of the rate-payers of the village, was a sufficient guarantee that business would not be needlessly obstructed. The people were desirous of electing their punchayets, but considering the fact that there might be some difficulty in working the elective system on a larger scale, he thought he should not be justified in proposing it. His amendment would, if carried, amount to the introduction of a *quasi*-elective system under safeguards which would eventually prevent the Magistrate from being misled by designing men in his selection of the punchayet.

The HON. MR. GARRETT said he could not accept the amendment. It appeared to him that the section as it stood provided that a magisterial officer should go to the village and ascertain the wishes of the villagers as to the persons to be selected for the punchayet. The Government was not prepared to concede a regular system of election; but they desired that the opinions of the villagers should be placed before the officer who was to select the members of the punchayet, that the villagers should in an informal way express their opinion as to who were the fittest persons to be appointed. It seemed to Mr. Garrett that the hon. member's amendment would make it possible for one-third of the villagers to keep any person out of the punchayet—make it in fact a sort of club in which one black ball in three would exclude. The selecting officer would in most cases be a native gentleman who would be fully qualified to judge of the validity of any objections which might be raised to any person who had been chosen for appointment to the punchayet.

The HON. MOULVIE ABDUL JUBBAR remarked that experience in the working of the Act showed that if the amendment were carried there would be considerable difficulty in appointing a punchayet; for it would be very easy for an unwilling raiyat or the principal person in the village to induce one-third of the villagers to object to any appointment.

The HON. MR. REYNOLDS thought the amendment would cause great inconvenience. Besides, the exclusion of any person on the objection of one-

third of the rate-payers assumed that the Magistrate would have in his possession a list of the rate-payers, and that he would be able to see whether one-third of them had objected. Mr. Reynolds therefore opposed the amendment.

The HON. MR. ANUNDO MOHUN BOSE said that the acceptance of the amendment would defeat the very object which the Hon. Mover had in view. As the section was worded, the procedure was this:—A person exercising magisterial functions went to the village, and the people to be appointed as punchayet were to be the persons who in the opinion of the villagers were considered to be the fittest, or, for special reasons to be recorded, other persons might be appointed. Practically in nine cases out of ten the election by the villagers would be accepted by the Magistrate, for he could not conceive that special disqualifying causes to their selection would be found to exist in anything like an appreciable number of cases. But under this amendment, after such selection and appointment had been made, there was to be a publication in the village, and the opposition of one-third of the villagers would defeat the selection made by two-thirds of them; and the effect of that would be really to defeat the introduction of the elective principle, and not to promote its acceptance. Not only would this be the case, but the whole elective system would be brought to a dead lock, and there would be a fiasco; for nothing was provided in the amendment to meet the contingency which might happen on one-third of the rate-payers objecting to the selection by the majority. Was a Deputy Magistrate to go again to the village, with a similar result following *ad infinitum*, and a minority successfully and permanently overriding the wishes of the majority? Under these circumstances, he hoped his hon. friend would see that, while every one was prepared fully to sympathise with the object he had in view, it would be frustrated and not furthered by the amendment. Mr. Anundo Mohun Bose would have wished that the recognition of the elective principle had been more formal and complete; but he did not think that result would be obtained by accepting this amendment.

The HON. RAI JAI PROKASH LALL BAHADUR said in reply that he admitted that under the provisions of this Bill a better class of men would be obtained for the punchayets; but the Magistrate could only consult a number of selected persons and not the whole village. It generally happened that designing men stepped in and tried to get their own set appointed, and sometimes very obnoxious persons were nominated to the punchayet. His object was only to provide some safeguard to prevent the appointment of such men, which would be a great advantage.

The motion was then put and negatived.

The HON. RAI JAI PROKASH LALL BAHADUR moved that in section 11 for the words "such officer as the Magistrate shall appoint," the following words be substituted: "the member of the punchayet appointed to collect the tax." In support of his amendment the hon. member said:—The Council was fully aware of the great difficulties which the Magistrate found in inducing respect-

able people to accept seats on the board of punchayets. These difficulties arose from the fact that the members of the punchayet were treated with but scant courtesy by the regular police. Almost on every occasion when the Inspector visited a village, a punch was treated a little better, of course, than the chaukidar, but still in a way to which no man who had the smallest spark of self-respect would submit. The punchayet had also to dance attendance on the Magistrate and Deputy Magistrate, and District and Assistant Superintendents of Police, wherever they might choose to encamp while on tour. But although a seat on the village board was now no bed of roses, still a punchayet had some real power over the chaukidar, inasmuch as his wages were paid by them. He desired that this power should still be theirs, and that, only in exceptional cases, where the Magistrate was satisfied that there had been wilful and negligent failure to pay the chaukidar's salary, the Magistrate would be able to substitute an official agency in place of the indigenous agency. He earnestly submitted that the system proposed by the Bill could not work at all satisfactorily. In the first place, the punchayets of all the villages of a district, in many cases situated at enormous distances from the sudder station, were to remit their collections to the Magistrate. How would this money be remitted? Who would pay the expenses which the process would involve? Were the collections to be remitted daily, or weekly, or monthly? Would the money have to be deposited in the thana or treasury, or kept with a ministerial officer? If the latter, how would his duties be remunerated? How and by whom were the accounts to be kept; whether by the same officers who had the custody of the money or by a different set of men? Who, again, would be the officer appointed by the Magistrate to pay the chaukidars' salaries? If the Inspector or Sub-Inspector or Head Constable in charge of a police station or outpost be appointed, were they quite sure that the lot of the chaukidar would be improved? Considering the present staff of subordinate police officers, it was extremely doubtful whether the three rupees per month would not grow beautifully less and less by change of hands to two rupees, or two rupees and eight annas.

The ostensible ground assigned for depriving the people of the control of their own police is that chaukidars had not been punctually paid by the punchayets. Now he ventured to say that that ground could not be supported. Mr. Westmacott in his minute said:—

"From my own experience, I have generally considered that, so long as the villagers can find a chaukidar who will come regularly to the thana, I may leave it to them to take care that he performs watch and ward to their satisfaction, and to the chaukidar himself to secure proper pay and that I need not interfere unless the chaukidar complains of not being properly paid. * * * * * *

"Considering how natives dislike punctuality in making payments, I think the success of the punchayets in collecting the rate has been very fair. One Magistrate reporting on the subject points out that the punchayets have collected the chaukidari tax much more punctually than rents are collected in zemindar's estate or in khas mehals, and this I corroborate both from my own experience as Magistrate and also from the enquiries of the Committee."

[*Rai Jai Prokash Lall; Moulvie Abdul Jubbar; Mr. Anundo Mohun Bose.*]

So that it was abundantly clear that the very reason which had been assigned for the transfer of the power of making payments of the watchmen's salary from the punchayet to the police, failed. Even supposing, however, that the present system called for some reform, his sugges ion met all the reasonable requirements of the case. He proposed that the punchayet should, in the majority of instances, continue to make the payments; if the Magistrate was satisfied that they had negligently and wilfully failed to pay, he might displace them.

He felt confident that this amendment would be accepted. They should not brand a whole population of millions of villages as incompetent to manage such a small matter as the payment of their own watch. The people were far more interested in seeing that he guarded their lives and properties than all the regular police force put together; for when a theft or robbery took place, it was the people who suffered and not the Inspector or the Sub-Inspector.

The punchayet incurred the odium of assessing the tax and of collecting it; the liability of having their goods and chattels distrained and sold was imposed upon them: they were dragged before the Criminal Court for neglecting to give information of offences, and still they were not to be trusted any longer. If there were any means completely to estrange the sympathies of the people from the village watch, the provision of the Bill which he humbly sought to amend would completely bring about such ends.

The HON. MOULVIE ABDUL JUBBAR observed that if the hon. member consulted the wishes of the chaukidars themselves he would find that they would prefer to be paid by an officer of Government than to receive their salaries from the members of the punchayet. He thought that, in a matter like this, there was considerable advantage in taking into consideration the wishes of the payees.

The HON. MR ANUNDO MOHUN BOSE said he had not had the advantage of consulting the chaukidars as to how they would like to be paid. They were, he apprehended, rather a large body for any single member to consult; but he had caused inquiries to be made, and from the information accessible to him, it certainly seemed that the chaukidars were not very fond of the members of the police force with whom they had to come into contact. He would beg therefore to support this amendment, and he supported it, first on the ground that the Bill proposed to effect a radical change in the relations which had hitherto been subsisting between the chaukidars and the members of the punchayet. He thought the Bill would loosen that bond of sympathy which existed between the chaukidar and the village community, and the punchayet representing the village community, if the power of payment of the chaukidar's wages were taken away from the punchayet, and the chaukidar had to look to the Magistrate or officer appointed by the Magistrate for his pay. He was free to admit that the report of Mr. Monro's Committee had brought it out that there had been exceptional cases of irregularity in the payment of the chaukidar on the part of the punchayets; but he would beg to draw the attention of the Council to this one great fact, that the Council was practically proceeding on the basis that the defects which had been found to exist in the

working of the punchayet system might fairly or reasonably be traced to the other admitted fact that the constitution of the punchayet had not been framed in strict accordance with the intention of the Legislature; and it was on that ground that the Select Committee came to the decision to give a further trial to the present system, and to strengthen, in a material way, the constitution of the punchayet in the manner proposed in section 3 of the Bill. He therefore submitted that it would be desirable to give a further trial to the present system without introducing this very material innovation, and to see how the punchayet, as it was now proposed to be constituted, gave satisfaction by a proper discharge of their duties. Then he begged to point out the inconveniences which would result from the adoption of the course suggested by this section of the Bill. In such case the collections made by the punchayet would have to make a double journey; first a journey to the Magistrate or officer whom the Magistrate might appoint to pay the chaukidars, and then the journey back into the hands of the chaukidar. No doubt there were great advantages in travelling, but in this case he did not think there would be any profit, but on the contrary inconvenience and loss would result from the process. He next submitted that it was not desirable to cast a slur on the whole body of punchayets by depriving them of the power of paying chaukidars on account of irregularities on the part of some of them, and it should be remembered that by this Bill punchayets would be constituted on a new basis, and that the proper safeguard against non-payment would be furnished by the next amendment of the hon. member (Rai Jai Prokash Lall Bahadur). What was proposed was this: that when there was a complaint of non-payment by a punchayet, it would then be open to the Magistrate to appoint an officer to pay the chaukidar. But in the absence of complaints of that description it would not be necessary, nor he submitted would it be desirable, that the wholesale change contemplated by section 11 should be introduced. And lastly, he would also mention this for consideration, that if the apprehension was justified that the officer appointed would be a member of the police force—and he supposed that in many cases it might be so—the evils that would be brought into existence would also be of a serious description. He would not enter into that question now, because there was a further amendment on the notice paper which would enable him to address himself to that general point; but having regard to the class of police officers in charge of outposts, in many cases in remedying the present evil the Council would perhaps be introducing evils of a worse description. On these grounds he hoped the Council would accept the amendment, and all the more so when it was remembered that it was to be read in conjunction with the next amendment, which provided that on complaint of the non-receipt by the chaukidar of his salary for a quarter the Magistrate might take action.

The Hon. Mr. Garrett entirely opposed the amendment, because it would defeat one of the main objects of the Bill, viz. to secure the punctual payment of the chaukidar, by bringing it in some degree under the hands of the Magistrate. Experience had shown not only that the chaukidars would not

[*Mr. Garrett; Mr. Reynolds; Rai Jai Prokash Lall; The President.*]

complain, but they were forced to admit that they had been paid when they had not been paid. An hon. member mentioned in Committee a case in which certain chaukidars had been compelled to refund the arrears of pay which the evening before the punchayet had been compelled to pay them. And as regards the question of inconvenience, Mr. Garrett remarked that the word "Magistrate" included a sub-divisional Magistrate as well as a District Magistrate, and there would therefore be little or no inconvenience. Moreover, money might be remitted by means of money-orders in the same way as rent might now be remitted. He thought that to leave the payment of the chaukidars in the hands of the collecting member of the punchayet would be to perpetuate one of the most well-proved evils of the present system.

The HON. MR. REYNOLDS observed that if the next amendment on the notice paper was accepted, to which he saw no objection, there would be nothing in section 11 as it stood to prevent the Magistrate directing that the pay of the chaukidar should be given to him by the collecting member of the punchayet. He quite agreed with the Hon. Mover of the Bill that the section was of extreme importance, and that the amendment now before the Council would defeat one of the main objects of the Bill. He therefore opposed the acceptance of this amendment.

The HON. RAI JAI PROKASH LALL BAHADUR said that the remarks which he had made applied not only to the amendment now before the Council, but to his proposed amendment on section 12, which related to the same subject-matter, and he had nothing further to add.

HIS HONOUR THE PRESIDENT said that the Act as it originally stood, section 43, provided that every chaukidar should receive, month by month, the full amount of his salary from the members of the punchayets appointed to collect the tax. The amending section of this Bill simply said that every chaukidar should receive, quarter by quarter, (following the law as amended by Act I of 1871), the full amount of his salary from such officer as the Magistrate should appoint. The objection taken to this amendment of the law was that it superseded the punchayet. HIS HONOUR could not help agreeing with the Hon. Mr. Reynolds that, provided some such words were introduced as was suggested in the next amendment in the name of the Hon. Mr. Anundo Mohun Bose, there would be nothing in the amending section as it stood which would prevent the Magistrate from employing if he thought it necessary, any member of the punchayet to perform this duty. HIS HONOUR was very glad to hear from the hon. member that there had been great concessions made since this Bill was first introduced. It was framed on the recommendation of the Committee, the majority of whom at least considered that a completely different system should be introduced on account of the failure of the Act which was passed fifteen years ago. The point which they brought out chiefly was that the punchayets did not do their duty, and that the chaukidars were not regularly paid. The Committee were of opinion that, in this matter, the punchayets should not be trusted further, but the argument which the Hon. Mr. Anundo Mohun Bose based upon that was that, as the constitution of the punchayets would be greatly

improved under this Bill, they should be trusted further. The view of the Committee, which was a very efficient one, composed as it was of gentlemen thoroughly conversant with the working of the system, was very strongly opposed to the continuation of the present mode of paying the chaukidars. They said practically that the Act was passed on the principle of trusting the village communities; that in such a small matter, limited to so small an area, viz. a village, and the payment of so small a sum as Rs. 3 or Rs. 4 per mensem to the chaukidar, it had been hoped that the village community would have been able regularly to realize the money in their own way and to pay the chaukidar. The result of their enquiries, however, went to show that in both these respects the Act had failed. The money was not properly realized: it was realized from the poorer class of people, while the rich were entirely exempted, which was very unfair; and the money even when collected was not regularly paid to the chaukidar. They admitted that there had been a great improvement upon the previous state of things when the chaukidars were paid by the zemindars, but they said that the Act of 1870 had nothing to do with the improvement which had taken place. The system introduced by that Act was intended to be self-acting, and very much was left to the spontaneous action of the punchayets and the village communities. The result, however, was that any improvement which had taken place had been effected by measures entirely outside the Act. He would read to the Council a few lines in which the Committee brought that out. They said—

"Up to the year 1878 the village communities were allowed to work the Act very much in their own way, and special attention does not seem to have been directed to the question of the regularity of payment of salaries of chaukidars. In that year, however, doubts began to be expressed as to whether the payment of chaukidars' wages was so regular as believed, and in 1879 the inspection of punchayets' accounts by police officers was specially sanctioned by Government. The inspection of these accounts revealed the fact that instead of the village chaukidar being paid with regularity, the village communities had allowed his wages habitually to fall into arrears. Since then, exceptional activity has been displayed by local officers in insisting on punchayets doing their duty, and in not unfrequent instances punctuality of payment has been secured by the adoption of measures decidedly illegal."

That went to show that the voluntary system was an absolute failure, and that hitherto the only way to secure the regular payment of this important body of public officers was by the exercise of extra legal, or rather illegal, powers to enforce payment. And now the hon. member asked the Council to exclude legislation which would sanction the exercise of such powers. His Honour was very glad to accept, having regard to the expressed views of public officers generally, the proposal of the amended Bill to give a further trial to the punchayet system; but he must insist that it was the duty of the Government to secure by the best means in their power the regular payment of these watchmen, and that could only be done by some principle of external control such as this Bill provided. His Honour would not object to the insertion of the words "or person" after officer, because he thought that, in most cases in which the Magistrate took action under this section, it would be by appointing

the headman of the punchayet to perform this duty, and it would be only in exceptional cases, when the village community or the punchayet was obstructive or dilatory, that the Magistrate would have power to depute some person to see that the chaukidar was paid. And therefore he opposed the amendment that the matter should be left as it was at present entirely in the hands of the punchayet, but he would be willing to accept an amendment like that proposed by the Hon. Mr. Anundo Mohun Bose to secure that the person deputed should not necessarily be a police officer, but any person whom the Magistrate thought fit to appoint, such for instance as any member of the village community in whom he had confidence.

The motion was then put to the vote and negatived.

The HON. MR. ANUNDO MOHUN BOSE moved that in section 11, after the words "such officer," the words "or in such way" be added, and that at the end the following proviso be inserted:—"Provided that, so far as practicable, the payment shall in no case be made through the police." He said that he hoped after the remarks which had fallen from His Honour the President that there would be no difficulty on the part of the Council in accepting this amendment. His reason for proposing the amendment was twofold. First, he thought it very desirable that it should be expressly laid down that the police, as a rule, should not be empowered to disburse payments to the chaukidars. And in order to support that it became necessary for a moment to examine the relations at present subsisting between the police and the village chaukidars. A number of enquiries were instituted on this point, as had been stated in the memorial from the Indian Association, and certainly the result of that enquiry, from more than a hundred villages, was to show that the village chaukidars were in a state of almost unmitigated serfdom to the officer in charge of the police thana. And this was subsequently borne out by the report of the Official Committee. In paragraph 81 of the report of Mr. Monro's Committee, they said—

"At present chaukidars drop into the thana at all hours of the day. The officer in charge asks them if they have anything to say, and they reply in the negative; they dawdle about the thana; the police make use of them to perform various menial services for them, and they go off to their villages without having really given any information of any practical use, only to return next day, or a few days afterwards, to go through the same unmeaning form."

The Council had it therefore on the authority of the Committee that it was an undoubted fact that when the village chaukidars went to the thana, very little use was made of them for the real purpose of their visit to the thana, but practically the use to which their attendance was turned was to make them perform—he need hardly say without remuneration-- all kinds of menial service that might be imposed upon them by the officer in charge of the station. The result of the enquiries of the Indian Association went further. Not only at the thana, but on the occasion of the visit to the village itself, the police officer was in a position to exercise all the privileges of a master in making the chaukidar carry loads and the like, in some cases subjecting him to personal

ill-treatment: and Mr. Anundo Mohun Bose submitted that, if the payment of the chaukidars were further to be made over to the police, those relations—and they were exceedingly undesirable relations—would be all the more strengthened. *Secondly*, he submitted that in other respects also it would be undesirable that the police should have this power. He did not wish to make any sweeping observations; but after the startling statements made in the body of the report as to the conduct of the Police, and after the observations which had been made by an hon. member whose services the Council were sorry to lose, though they congratulated him on his elevation to a higher sphere of usefulness, Mr. Anundo Mohun Bose thought the Council would agree with him in coming to the conclusion that, constituted as these subordinate officers of police were in many cases in the mofussil, it was not desirable that they should have the work of disbursing the pay of the chaukidars. And let it be remembered that this would materially add to the work of an over-burdened police which had already enough to do. The words "or in such way" which the amendment proposed to insert would enable the Magistrate to exercise his discretion in an unfettered way, and determine how the payment was to be made. He might make it through the post if he chose, and there were various other agencies which might be utilised, as for instance the Chairman of the Union Committee, or the head-master of the school, or the Sub-Inspector of Schools, or the members of the punchayet themselves. All these means for making payments to the chaukidars would be open to the Magistrate, and there would be no necessity for the employment of any member of the police force, or of any public officer of any description.

The Hon. Mr Garrett said he would have no objection to the first portion of the amendment if the hon. member would be willing to substitute for "or in such way" the words "or person."

The Hon. Mr. Anundo Mohun Bose explained that his object in proposing to introduce the words "or in such way" was to make it more comprehensive so as to include, for instance, payment through the agency of the post.

The Hon. Mr. Garrett thought the payment should be made by some particular person who could be held responsible. A village chaukidar could not read or write, and he might say that his receipt was forged.

The Hon. Mr. Anundo Mohun Bose having acquiesced to the proposed substitution of words—

The Hon. Mr. Garrett observed that, as regards the second portion of the amendment, he could not accept it fully. He agreed that payments should not be made by a Head Constable of police for instance, but he thought an officer in the position of Sub-Inspector ought to be trusted.

The Hon. the Advocate-General said he did not think they should assume that all the aspersions which had been made against the police were deserved. They should assume that the police would do their duty, and he apprehended that every Magistrate of intelligence would take care that the payments were made in such a way as to ensure the receipt of the money by the chaukidars. He thought the Magistrate would hardly depute an officer

who was supposed not to be an upright man, and that the safeguards proposed in the second portion of the amendment were unnecessary.

The HON. MR. HARRISON considered that a very large and important principle was involved in this amendment. The principle of separating the village police from the control of the district police, and so far as it worked in that direction he submitted it was entirely wrong and contrary to principles recognised in all civilized countries. He was afraid lest the prejudice which existed against the police should lead the Council to accept an altogether wrong principle in this matter. The village chaukidars were, in fact, the rural police on whom the detection and prevention of crime rested: the district police were too few in number, their time was much taken up with serving processes, and they were not in a position to discharge the functions of a detective force. It would be a retrograde measure to pass any section the effect of which would be to make the subordinate police feel that they were not to look up to their superior officers; for that was after all what this proposal meant. The Magistrate must exercise the chief control over the subordinate police through the superior police. The question at issue was very much this: Who was to have control over the local Police? Was it to be in the hands of the Magistrate, and through him of the central authority, or of the chief persons of the village, and through them of the people themselves? The former he believed was the principle accepted in all countries.

Mr. Mill, who would not be likely to err by want of sympathy for the popular side, thus wrote on this very question in his work on Representative Government:—

"Security of person and property and equal justice between individuals are the first needs of society and the primary ends of Government. If these things can be left to any responsibility below the highest, there is nothing except war and treaties which requires a general Government at all. Whatever are the best arrangements for security, these primary objects should be made universally obligatory, and to secure their enforcement should be placed under central superintendence."

It was quite evident what so staunch but enlightened an advocate of popular Government as Mr. Mill thought of a proposal to place the police under popular control, and Mr. Harrison could hardly conceive of anybody who had thought out the subject taking a different view. It seemed to him that the concession proposed by the hon. member in charge of the Bill went too far, for it would not allow a Head Constable in charge of an outpost to pay the village police. On a detail of this kind, however, Mr. Harrison would not introduce an element of division into the Council, and he was therefore willing to vote for the Hon. Mr Garrett's suggestion, but he would certainly contend against putting in any clause which would imply that village chaukidars were not to be taught to look up to the superior officers of the police of the district for orders or for the payment of their wages.

The HON. RAI JAI PROKASH LALL BAHADUR said the real question which was involved in the amendment before the Council was the transfer of the power of control of the village chaukidars from the punchayet to the police. If the pay

of the chaukidar passed through the police, there could be no doubt that all that had been stated by the Hon. Mover of the amendment would come to pass. The members of the punchayet themselves were not well treated by the sub-inspector, head constable and other police officers, and therefore service on the punchayet was unpopular. If any member of the punchayet, or some other respectable person in the village, was appointed to pay the chaukidar, there would be no objection.

The Hon. Mr. Anundo Mohun Bose said he would ask hon. members to consider what was the real object of section 11. He understood that the object was to secure that the salary of the chaukidar should be regularly paid. If that, and that alone, was the object, then he could not understand why there should be any objection to accepting the amendment; but if the object was different—and no doubt the Bill as it was introduced had avowedly another object, viz. to make the village police to a larger extent than now amenable to the influence of the regular police—then he could understand why it should be intended to have the payments made through the police. But if all that was wanted was to see that the chaukidar was paid, there might be any number of means and agencies for doing so without having recourse to the police themselves, and his amendment asserted, as a general direction to the Magistrate, that if he could help it payments should not be made through police officers. If the Magistrate could not find any adequate means of doing so, then there would be nothing to prevent him in such cases only from employing the police as the disbursing agency, and therefore with the addition of the words "so far as practicable" he had thought there would be no objection to the acceptance of the amendment. If payments were made through the police, it would add very materially to the already too great influence which they possessed over village chaukidars; and that he had demonstrated by reference not to facts outside official records, but to the language of the report itself where it described the relations between the police and the chaukidar as being of such a kind that he was made to neglect his proper duties in order to perform menial services for police officers. He hoped the Council would agree with him that that was not a desirable state of things to continue, that those who were guardians of the law should be breakers of the law and oppressors of the weak, and that not casually, but systematically and in the face of day; and he apprehended that the position of the unfortunate chaukidars and their treatment by the police would be a great deal worse when payment was to be made through police agency. He would go further and say that, if it were a choice between the acceptance of this amendment and the suggestion made by the hon. member in charge of the Bill, he was not sure that it would not be better, if his amendment was not accepted, to leave the section as it stood; because by the insertion of the words suggested the idea might be conveyed that, as a matter of course, the police above a certain rank should be employed in paying the chaukidars, and not only in cases where no other agency was available. He had tried in vain to get an answer to the question why it should be laid down or contemplated, unless in case of necessity, that payments should be

made through the police at all. He had indicated a variety of means by which such payments could be made; but he would make one observation with regard to the aspersions on the police, that he rested his case entirely on the finding of a purely Official Committee, powerfully constituted, with regard to the state of things that existed at present. And if that was so, and if such a state of things had been allowed to go on without check from the higher authorities, what guarantee would there be when the sub-inspector had to make the payment. He need not again refer to the question of deductions in payment; but on all the grounds he had urged, he thought that it was very desirable to lay down that, as a rule, payment should be made through agency other than that of the police, though when there was a necessity there should be nothing to prevent payment being made through them.

The question that the words "or person" be inserted after "such officer" in section 11 of the Bill was then put to the vote and agreed to.

The question that the words "provided that, so far as practicable, the payment shall in no case be made through the police" was then put to the vote and declared to be negatived, when a division having been demanded by the Hon. Mover of the amendment, the following votes were recorded:—

Ayes 3.	*Noes* 8.
The Hon. Mr. Anundo Mohun Bose.	The Hon. Mr. Cruickshank.
The Hon. Rai Jai Prokash Lall Bahadur.	,, ,, Irving.
The Hon. Moulvie Abdul Jubbar.	,, ,, Harrison.
	,, ,, Garrett.
	Col. the Hon. S. T. Trevor.
	The Hon. Mr. Reynolds.
	,, the Advocate-General.
	His Honour the President.

So the motion was negatived.

The HON. RAI JAI PROKASH LALL BAHADUR moved that for the second clause of section 12 the following be substituted:—

"44. Whenever the salary of any quarter shall not be paid in full to any chaukidar on or before the fifteenth of the quarter following, such chaukidar may apply to the Magistrate, who shall call upon the punchayet within ten days to show cause why they should not pay the amount to such chaukidar. If the Magistrate is satisfied that the punchayet has wilfully or negligently failed to pay the salary of the chaukidar, he may appoint an officer on his behalf to make such payment till such time as he may think proper.

"44*a*. When an officer is appointed on behalf of the Magistrate, the punchayet shall, within thirty days after the end of each quarter, remit to such officer the collections made on account of the chaukidari fund of the village."

He had already stated his reasons for this amendment when moving his previous amendment that the punchayet should be allowed to pay the salary of the punchayet. But of course where the Magistrate was dissatisfied, owing to the neglect or failure in making regular payments, he might appoint some officer to do so, and when such officer was appointed the collections would

[*Mr. Garett; The President; The Advocate-General; Rai Jai Prokash Lall; Mr. Anundo Mohun Bose.*]

be remitted to him. But when the punchayet discharged their duties satisfactorily, they should be trusted to make the payments.

The HON. MR. GARRETT said he could not accept this amendment. It was substantially the same as the amendment proposed in section 11. The influence of the punchayet over the chaukidar was so great that the chaukidar would not admit that he had not been paid.

HIS HONOUR THE PRESIDENT remarked that he felt some hesitation in respect of this section of the Bill as it stood, which provided that the money was to be remitted quarterly to the officer or person appointed by the Magistrate or Sub-Divisional Officer to pay the chaukidars, and that it would then have to be remitted back for payment to the chaukidar.

The HON. MR. GARRETT explained that objection had been raised to the punchayet being required to remit money to the thana, because it was said that the police annoyed and insulted them. It was therefore proposed that the money should be remitted direct to the Magistrate, who would send it to the thana for payment to the chaukidars.

The HON. THE ADVOCATE-GENERAL suggested that the difficulty would be removed by making an amendment in this section similar to that which had been adopted in the previous section, and then the money would have to be remitted to the person who had to pay the chaukidar.

The HON. RAI JAI PROKASH LALL BAHADUR'S amendment was then put and negatived, and on the motion of the HON. MR. GARRETT for the words "shall remit to the Magistrate or such officer as the Magistrate may appoint in this behalf" the words "shall pay or remit to such officer or person as the Magistrate may appoint under the last foregoing section" were substituted.

The HON. MR. ANUNDO MOHUN BOSE moved that in the last line but one of section 12, for the words "the collections made on account of," the following words be substituted:—"A sum equal to the pay of the chaukidar for the quarter, or any smaller amount which may stand to the credit of,"

He said that under the law the sum to be collected was the whole amount of the chaukidar's pay, plus 15 per cent., and out of this additional 15 per cent. for charges of collection the punchayet might keep a sum not exceeding—in the existing Act 6 per cent., in the amended Bill 10 per cent. Therefore in cases where the punchayet had succeeded in realizing the whole amount it was only fair that they should be allowed to keep the percentage which the law allowed them in order to enable them to meet their out-of pocket expenses. Not only was there no reason why the extra amount should be remitted, but on the other hand, if the section stood as at present, it would be inconsistent with the other provision of the law which provided that the punchayets were entitled to a certain percentage to defray the cost of collection. Therefore he hoped the Council would have no difficulty in accepting this amendment.

The HON. MR. GARRETT having accepted the amendment, the motion was put and agreed to.

[*Mr. Anundo Mohun Bose.*]

The HON. MR. ANUNDO MOHUN BOSE moved that, after section 14, the following new section be inserted:—

"After section 47 of the Village Chaukidari Act of 1870, the following shall be inserted:—

"47*a*. When any Union Committee constituted under the provisions of the Bengal Local Self-Government Act, 1885, is willing to undertake the duties of a punchayet in any of the villages included in the Union, it shall be entrusted with the performance of such duties. No punchayet shall thereafter be appointed in such villages, all its powers being vested in the Union Committee; but it shall be lawful for the Union Committee to appoint Village Committees in such villages to help it in the discharge of its duties under the Village Chaukidari Act"

He said he earnestly hoped it might be possible for him to induce the Council to accept this new section. In examining the existing Act two very peculiar features struck him, viz. those embodied in sections 8 and 45. The first was that even if a person was not willing to accept the office of punchayet he would on penalty of a fine be compelled to accept it. No remuneration was given for the performance of the work, to which, moreover, there were very great liabilities attaching. Yet it was laid down that for a period of three years whether he was anxious for the honour or not, the onerous function would be thrust upon him; and further there was this very extraordinary provision in the existing law, slightly altered by the Bill now before the Council, that in case payments had not been made to the chaukidar, the personal belongings of every member of the punchayet would be distrained and sold in order to pay the chaukidar. A parallel provision would be that in case the Government collections were not properly made in any district, the furniture and belongings of the Collector should be sold to make good the deficiency. Such a course had only to be mentioned to expose its absurdity. A Collector might be dismissed if he neglected his duty, but in the case of punchayets, dismissal or resignation was not resorted to, but their goods and chattels were sold. And the argument which was urged in justification was this, that though these were very peculiar and very harsh and even oppressive provisions, yet in the existing state of affairs there was unfortunately no help in the matter. Nobody was willing to accept the office, and therefore it was necessary to lay down by law that the person appointed must accept office. Under these circumstances, if a competent body of men, competent by the showing of the Legislature itself, were found ready and willing to undertake such duties, he thought the justification for this peculiar state of affairs no longer existed. If the Union Committees were willing, the duty should be entrusted to them, and the Legislature should be glad to avail themselves of an opportunity of that kind; and the undesirable features in the present law, to which he had drawn attention, would in the course of time and in a self-acting and extending way cease to exist altogether.

But it was necessary to see that the body which was willing to undertake the duties was a competent body. On that point there could be no room for any hesitation. In sections 37 to 44 of the Local Self-Government Act

of last year, the organization of Union Committees was laid down, and he did not think there could be any difficulty in accepting the fact that Union Committees would be much stronger bodies than was ordinarily the case with punchayets. And further, Union Committees were to be formed only in places selected by the Lieutenant-Governor. It was only in advanced portions of the province, and under the safeguard existing in His Honour's selection, that Union Committees were to be established; and further, sections 104 to 119 laid down the duties of such Union Committees. They were to be in charge of all the village roads; they had to build new bridges and extensive powers of construction and supervision were entrusted to them; they were charged with the supervision of primary schools; with the appointment and dismissal of teachers; they might be placed in charge of dispensaries; they would perform the duties of registrars of births and deaths and look after the sanitation of the village. He ought to have stated that a Union Committee might be a committee of one village or of several neighbouring villages, and that a large number of such Committees had already been established; so that here there was a body having extensive powers of executive authority; and as regards the disbursement of funds, they were in fact the local body in charge of public works, education, sanitation, and so forth. Therefore there could be no doubt as to the competence of these bodies to discharge the very simple duties of punchayets; and there was thus, first, the element of a local and competent body; and secondly of that body of its own free will coming forward to accept the duties of village punchayet. It seemed to him therefore that it would really be strengthening the working of the system, and enabling the Legislature to abate gradually some of the necessary evils which at present existed, if the Council would accept a resolution of this kind it would enable a body already recognised to undertake these functions. He did not think he could conclude better than by referring to and quoting the words of His Honour the President in support of the motion he had placed before the Council. In paragraph 3 of the Government Resolution, dated 21st May 1884, it was said—

"During his recent tour in Eastern Bengal the Lieutenant-Governor had had many opportunities of obtaining information on the working of the present Chaukidari Act, VI (B.C.) of 1870, and he was of opinion that there was much in its provisions that needed amendment, especially in the view of its being made to supplement the general scheme of Local Self-Government then under consideration."

And further on in paragraph 5 His Honour said—

"Practical action upon the recommendations of the Committee has been delayed because the view which the Lieutenant-Governor took upon the matter when the report first came before him was that the solution of many of the difficulties connected with the village police might be found in the introduction of an extended system of Local Self-Government, with which the control of the rural constabulary might possibly be amalgamated."

And the resolution (in paragraph 9) summed up His Honour's opinion as to the control of the rural police by saying—

"The Lieutenant-Governor's own view inclines to the conclusion that where, under the Local Self-Government scheme, Union Committees are established, the necessary control

might be vested in them. Where there are no Union Committees, the Local Boards, under the presidency of the Sub-Divisional Officer, would provide the necessary agency."

Those were very weighty words, and laid down a principle which the Council ought to accept, and which would tend to remove by and bye, as Union Committees were in the exercise of His Honour's discretion extended to different districts, the imperfections and difficulties attending the existing system, and to substitute for it a more competent and responsible body linked on to the scheme of Local Self-Government. These benefits would be attained if the Council accepted his motion which, founded on reason, came also before them supported on the highest authority, viz. that of His Honour.

HIS HONOUR THE PRESIDENT said he must take it upon himself to say at once that he thought the motion of the hon. member to introduce a section on the lines of this amendment was premature. It involved considerations which he for one should not like to dispose of on a sudden consideration of them now, and in respect of which he should not like to commit his successor. The hon. member quoted some observations of His Honour which reviewed at an early stage the question of Local Self-Government. That opinion had since then been circulated and general exception had been taken to placing the rural police under the control of Union Committees. The Hon. Mover of the amendment alluded to the fact that Union Committees would have large powers entrusted to them; but His Honour thought the hon. member would not find any allusion in the Local Self-Government Act to the idea of making over the police to the control and supervision of Union Committees, and the reason for that was that the Council which passed that Act were of opinion that the control of the police should not be entrusted to Union Committees. If they had thought such a measure desirable, it would have formed part of the powers to be entrusted to them in addition to the subjects of sanitation, public works, and the like. But the strongest objection to His Honour's mind was this, that the introduction of the Local Self-Government Act had just commenced throughout the country. The Government was at present dealing with the constitution and work of District Boards at sudder stations and of Local Boards at sub-divisional head-quarters, and they had found considerable difficulty in carrying out the measure. To his mind it was quite clear that until the working of the Local Government procedure in large stations and in sub-divisions had been secured, the Government could not think for a moment of extending the principles of that measure, and conferring upon local village institutions the powers under the Act. Therefore until Union Committees, the creation of which was permissive, were constituted, the extension of their powers under the provision proposed by the hon. member in this section seemed to his mind quite premature. When the time came for Union Committees to be established, it would be left to the Government of that day to decide whether the working of the rural constabulary could be made subject to the control of such bodies; for himself he thought it was too early to take that suggestion into consideration now.

The motion was then put to the vote and negatived.

[*Mr. Reynolds.*]

The further consideration of the Bill was postponed till the next meeting of the Council.

AMENDMENTS OF THE CALCUTTA AND SUBURBAN POLICE ACTS, 1866.

The Hon. Mr. Reynolds, in moving that the clauses of the Bill to amend Act II (B.C.) of 1866 and the Calcutta Police Act, 1866 be considered, said that the Bill in the form in which it was amended by the Council at its last meeting had been circulated, and had been in the hands of members for some time, and as notice of no further amendment had been given, he might assume that the Bill as it had been amended was accepted by the Council.

The motion was put and agreed to.

On the motion of the Hon. Mr. Reynolds the Bill was passed.

VACCINATION ACT, 1880, AMENDMENT BILL.

The Hon. Mr. Reynolds, in moving that the report of the Select Committee on the Bill to amend Bengal Act V of 1880 be taken into consideration, said that the Bill had been very carefully considered by the Select Committee, and extensive changes and alterations had been made in it; but as these had been fully explained in the Committee's report, he need not dilate upon them. The most material change was in section 5, amending section 13 of the Act. The Bill as it stood in its first draft allowed the Health Officer of the Port, if he deemed it expedient, to require any unprotected person on board a vessel arriving in Calcutta to submit himself to be vaccinated. Very strong exception had been taken to the provisions of that section in a representation received from the Chamber of Commerce. The Chamber thought the provision was uncalled for, and was likely to produce much inconvenience to passengers. They said that the danger from small-pox in the case of ordinary passengers was extremely limited, and that in all passenger lines the passengers suffering from infectious disease were segregated in a separate cabin, apart from the other passengers and the members of the crew. The Select Committee took that into consideration, and he need hardly say that when the Bill was originally drafted there was no intention of putting the provisions of the section in force against such passenger lines as the Peninsular and Oriental Company and other well-known passenger lines of steamers, but the cases in the minds of the framers of the section were such as were referred to in the papers connected with the Bill, one of which was the case of the *Darlington*, an emigrant sailing vessel, and the other was the *Empress of India*, also a sailing vessel, a merchant ship. It was never of course intended that passengers should be subjected to any unreasonable detention on board ship, or that the Health Officer would act in the way in which the Secretary to the Chamber of Commerce apprehended that he would act. At the same time, he admitted that the wording of the section might be interpreted to give powers which were liable to be abused, and the Select Committee took that into consideration and amended the section so as

[*Mr Reynolds; Mr. Harrison.*]

to allow the Health Officer, in case a vessel came into the port with a person suffering from small-pox on board, to oblige unprotected persons on board such vessel to submit themselves to vaccination. That would of course limit the operation of the section to a comparatively small number of cases, and would not give the wider and more complete protection which the section originally gave. At the same time, it met objections which, he must admit, were not unreasonable. Besides this, the Select Committee had introduced words to indicate under what circumstances the limited power thus given to the Health Officer was to be exercised. The section as it now stood would make it clear that if the Health Officer learned on enquiry that care had been taken to isolate infected persons on board, so that there would be no risk of the contagion being conveyed into the town, it would be unnecessary for him to exercise the powers which the section would otherwise give him, but that he should only do so in cases where it was necessary to put the section in force in order to prevent the risk of contagion being brought into the town. Then in regard to another section (section 6) further objection had been taken. The section gave somewhat extensive powers to public vaccinators, and it had been urged that they were not a class of persons to whom such powers could properly be entrusted. The section had now been restricted to the town and port and suburbs of Calcutta and Howrah, and its wording made it clear that it did not authorize a public vaccinator to enter any house at his pleasure. It merely allowed the Superintendent of Vaccination or medical practitioner or public vaccinator authorized by him to have such access to a house as he might require for the purpose of ascertaining whether the inmates were protected or not. The Chamber of Commerce in the 4th paragraph of their letter seemed to think that the section as it originally stood would give a public vaccinator powers of inquisition and visitation which it would not be safe to entrust to such officers. But the object of the section was to carry out within the town a system of house-to-house visitation, and therefore the section provided that when authorised by the Superintendent of Vaccination a public vaccinator might enter houses situated within his beat in order to ascertain whether the inmates were protected or not. The only other section to which attention need be drawn was section 8 of the amended Bill, by which the amount of the fine under sections 29A and 29B had been restricted to fifty rupees, a sum which the Select Committee considered sufficient to meet the cases provided for by those sections. He did not propose to ask the Council to pass the Bill on that day, but in the event of no objection being taken, he intended to move that the Bill be passed at the next meeting of the Council.

The motion was put and agreed to, and the clauses of the Bill were settled without amendment.

CALCUTTA MUNICIPAL CONSOLIDATION BILL.

The HON. MR. HARRISON moved for leave to introduce a Bill for the amendment of the law relating to the municipal affairs of the town of Calcutta, and in

doing so he said:—He had been given to understand that the Local Government had taken into consideration the report of the Committee, of which the Hon. Mr. Reynolds was President, for the amalgamation of the town and suburbs, and that the recommendations contained in the report of the Committee in their general features had been sanctioned. Also he had His Honour's authority for saying that the Government of India had in the main approved of the measure. Under these circumstances, it would probably be for the convenience of the Council and the public that a Bill embracing the chief outlines of the constitution of the enlarged municipality under the proposed amalgamation should be laid before the Council before it separated; and if this proposal met with the approval of the Council, he now asked leave to introduce a Bill before the termination of this session, that is to say, probably this day fortnight.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 10th April 1886.

The Council met in the Council Chamber on Saturday, the 10th April 1886.

Present:

HIS HONOUR the Lieutenant-Governor of Bengal, K.C.S.I., *presiding*.
The HON. G. C. PAUL, C.I.E., *Advocate-General*.
The HON. H. J. REYNOLDS, C.S.I.
COL. THE HON. S. T. TREVOR, R.E.
The HON. C. B. GARRETT.
The HON. H. L. HARRISON.
The HON. MOULVIE ABDUL JUBBAR.
The HON. RAI JAI PROKASH LALL BAHADUR.
The HON. G. IRVING.
The HON. D. CRUICKSHANK.
The HON. ANUNDO MOHUN BOSE.

REGISTRATION OF PERMANENT TENURES.

The HON. MR. REYNOLDS presented the preliminary report of the Select Committee on the Bill to provide for the registration of permanent tenures, and moved that the report, together with the Bill as preliminarily amended, be published in the *Calcutta Gazette*. He said that he did not propose upon that occasion to ask the Council to take the report or the Bill into consideration. But it appeared to him that some misapprehension existed out of doors with regard to the Bill, and he therefore wished to take that opportunity of saying a few words regarding the objects and scope of the measure. The main objects of the Bill were three in number, and two out of the three were intended expressly for the benefit and advantage of the zemindars, the third being for the benefit alike of landlords and tenants, and also of the Government. The first object of the Bill was to get rid, as far as permanent tenures were concerned, of what was known as the twenty years' presumption. During the debates on the Bengal Tenancy Act there was hardly any matter which was more fully considered, both in the discussions in Select Committee and in the passing of the Bill through the Council, than this question of the twenty years' presumption. The member in charge of that Bill was very strongly urged to strike out of the Bill all reference to the presumption, and Mr. Reynolds must admit that arguments of some force were brought forward in favour of that course. But it appeared to the Government of India that simply to strike all reference to the presumption out of the law would be only substituting one form of hardship and injustice for another. The result was that the provision regarding the presumption was retained in the Act, but two sections were introduced which were intended to have the effect of gradually extinguishing and doing away with the presumption. One of these was a provision which declared that, when a survey and record of rights had been made in a local area, the presumption should not thereafter apply to any tenure within that area. The other section was one which provided that if by any law which might be passed hereafter it was declared that any class of tenancies must be registered by a certain

date, the rule of presumption would not after that date apply to such tenancies which had not been so registered. The present Bill was intended in this respect to supplement that provision of the Tenancy Act, and the effect of it would be that if the registration of permanent tenures was made compulsory by a certain date in any local area, after that date the presumption of twenty years could not be pleaded in respect of any such tenure which had not been registered. This was one of the objects of the Bill for the benefit of the zemindars, and one which they had expressed themselves very anxious to see accomplished. The second main object of the Bill was to facilitate the recovery of rents by the zemindars from this description of tenants. During the discussion on the Tenancy Bill very serious complaint was made that the Government had not fully redeemed the promises which were alleged to have been given to the zemindars, that additional facilities should be afforded to them for the recovery of their dues. But it must be admitted that, if there was one class of tenures the rent of which was recoverable with greater regularity than others, it was those tenures which were liable to summary sale under the Patni sale law. Now, the provisions of the Bill now before the Council would very largely extend the operation of that law, because the Bill declared that any tenure which should be registered under this Act should hereafter be subject to summary sale under that Regulation. That, again, was a great advantage to the zemindars, and with regard to this class of tenures the Bill would very much facilitate the recovery of rents. The third object of the Bill was based upon general considerations of the advantages which would be derived from collecting and recording a large mass of information regarding this important class of tenancies. That would be to the benefit of landlords and tenants and of the Government itself. Those were the main objects of the Bill. Whether the Bill, in the form in which it had been recast by the Select Committee, was the measure best adapted to carry out all those objects, was a question which he did not propose to touch upon at present. It seemed to him very desirable that the Bill should be republished, and a deliberate expression of public opinion on it be invited. If the zemindars, after full opportunity had been given them for such an expression of opinion, considered that it was not desirable to legislate upon those lines, he imagined the Government, considering that the Bill had been mainly introduced for the purpose of benefiting the zemindars, would not desire to press the measure upon them against their will, but in that case it would not be open to the zemindars to say that the Government had not made an honest and sincere attempt to give them additional facilities for the recovery of their rents.

The motion was put and agreed to.

CALCUTTA MUNICIPAL CONSOLIDATION BILL.

The Hon. Mr. Harrison introduced the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta,

and moved that it be read in Council. He said that the introduction of this Bill had been more or less necessitated by the representations which had been made to the Local Government by several influential committees and bodies, and still more, if he might say so, by the force of the reasons and arguments which they had brought forward for the amalgamation of the town and suburbs. The reasons for amalgamation might be simply stated in this way: that hitherto the centre of a large city had been formed into one municipality, and the circumjacent tracts into another, and it seemed hardly necessary to do more than draw attention to so singular an arrangement to indicate the desirability of some change. All that seemed to be wanting to make the anomaly complete was for the river Hughli not to be the western boundary of the town of Calcutta, in which case a complete inner circle would form one municipality and the outer circle another. Even now Garden Reach on the one hand and Cossipur and Chitpur on the other were under one governing body; whilst the whole intervening space from the Circular Canal down to Hastings was under another Municipal Corporation. Moreover, very little thought was necessary to show that the suburbs of any town needed the assistance of the town for the funds requisite for their successful administration, and not only so, but the town itself needed the advantages of the suburbs for its successful administration. He was very much struck when he was in Bombay last year with the numerous facilities which Bombay enjoyed in the possession of large tracts of almost unoccupied land where they could locate places for washing clothes; where they could have cattle sheds and sheds to keep their carts; where they could, above all, start gardens and parks, and pleasure grounds; whereas here, in Calcutta, they knew very well that every single project was in danger of being rendered impossible by the costliness of the land which had to be acquired for the purpose. So much was this the case that they saw that wherever possible the two jurisdictions had already been amalgamated. As, for instance, in the matter of police, there was one jurisdiction in the town and suburbs; in the matter of hackney carriages, there was one jurisdiction for their registration; so also for carts; and as regarded the fire brigade there was one jurisdiction. He, therefore, submitted that the onus was clearly more on those who contended that the town should not be united to the suburbs, than on those who only advocated what seemed to be so natural and normal a proceeding. But, apart from that, it had been urged upon the Government that the mortuary statistics of the suburbs imposed upon the local Government the imperative necessity of considering this question. The mortality in the suburbs of Calcutta in the year 1878, which seemed the first year in which accurate statistics were available, was so high as compared with the mortality of Calcutta—and the mortality of Calcutta itself was high—as the proportion of 182 to 100, and although for some reason or other it diminished year by year down to 1882, when it only stood at 137 to 100, there had been from that date an increase every year, and in 1885 it was 152 to 100. Nor did these figures give a real or fair idea of the extent to which this mortality had been pre-

ventible. If disease was divided into what was called the zymotic or preventible class of disease, and the non-zymotic class, the case was much stronger. In the year 1884, the last year for which figures were available, the mortality from non-zymotic diseases in the suburbs was 12·8 and in the town 13·1, a difference of only ·3, but in the case of preventible diseases the mortality in the suburbs was 32·3 to 17·4 in the town. That showed an enormous amount of preventible disease in the suburbs of Calcutta, which, even when judged by the still very heavy amount of preventible disease in the town, showed the urgency of some steps being taken to abate it. But how those steps were to be taken as long as the present anomalous system prevailed was a problem. Obviously the greater wealth of the town was in its heart and centre. The resources of the suburbs were comparatively so small that it was impossible for them to undertake any extensive measures for drainage or water-supply, and even now, when steps were being taken for supplying water, it was found that the financial difficulties were extreme, and he was not sure that he ought not to say insurmountable. Again, as long as the present system remained, many sanitary authorities in the suburbs were disposed to say that part of the injury which they suffered was actually due to the system of drainage and conservancy in the town. It was said that, in consequence of the use which was made of the salt water lakes, and of the square mile, for the purposes of the town, the health of the suburbs had materially suffered. Whether this was true or not, it appeared to him that it furnished the strongest possible argument for uniting both into one administration. As long as the town did not feel the responsibility for the suburbs, it was impossible to prevent friction of this kind; it was impossible to prevent it being said that the one area was being sacrificed to the other. Last of all, this measure seemed to be still more necessitated by the sanction which had been recently given to the construction of the Kidderpore docks. Those docks would inevitably form an integral part of the town. Warehouses would be set up there, and a good deal of the commerce of the town would be transacted in the immediate neighbourhood of the docks. He need scarcely say that, where the business of the town was one and undivided, it was extremely undesirable that the administration of the town should be divided, and if the docks were to be constructed it seemed to him still more necessary that the dock area should be brought within the limits of the town administration.

On the other hand, it was well known that this measure met with great objections both amongst the population of the town and of the suburbs. He believed the real force of those objections could be stated in a very few words, and that they were concentrated and given expression to as follows: "We, the people of the town, apprehend that the taxation, which has been heretofore raised for our own advantage, will hereafter be partially raised for the improvement of the suburbs." What the suburbs apprehended was that their rates and taxes would be raised to the level of those in the town. As regarded the first of these objections, he might possibly not be impartial, but at the same time he was bound to say that it seemed to him to be an objection which was

entitled to the fullest consideration. Theoretically it might be said that a town was responsible for its suburbs, and ought to bear this extra burden, but such a theory was very much modified by the concrete facts of the past 30 or 40 or 50 years. As a matter of fact, the town had grown up with a responsibility of its own. Under these responsibilities, and with its financial liabilities, it had introduced a large system of water-works and drainage. It had acquiesced in the payment of a large portion of the police charges, and in general its rate-payers had been accustomed to adjust their financial liabilities in the light of the requirements of the town itself. It was not, he submitted, now possible with practical justice to go back from this and say that the people ought to recognize that their responsibilities were now much larger than they had hitherto been *qua* rates and taxes. There would certainly be a very natural sense of injustice if they felt that new burdens were being imposed upon them and that they were no longer to derive the same benefits from their rates and taxes as they had enjoyed for the last 50 years. Upon those grounds the proposed measure provided for the relief of the town from the police charges which it had hitherto borne. The town at present contributed about Rs. 2,80,000 towards the cost of the police. The Local Government now, he believed, saw its way, from the beginning of the next financial year, to relieve the town from this charge, and therefore this Bill provided for such relief. The effect of that would be that the rate-payers and the tax-payers of the town would be better off than they were at present to the extent of this Rs. 2,80,000. The intention naturally was that this sum should approximately represent the sum which they ought to contribute for the improvement of the suburbs. Of course he did not mean to say that any steps would be taken in the Bill to fix this as the exact sum which must be spent in this way. But the town would be able to levy precisely the same rates as heretofore, and inasmuch as the town would be better off by this sum than it was at present, it seemed just and equitable that the Government should expect the suburbs to be assisted to this extent for the greater expenditure necessary there. As regarded the suburbs, the objection was one which could not be, unfortunately, equally met, but on the other hand it could not be said that it was equally legitimate. Everything pointed, in the arguments which he had used, to the conclusion that the suburbs were in urgent need of money for sanitary wants, and that greater and more liberal expenditure was needed for those wants, and it was therefore not unreasonable that the suburbs should pay the same rate of taxation as the town. At the same time it was obvious that residents in the suburbs were the chief gainers by the measure. If the town was in a position to contribute this Rs. 2,80,000 for the benefit of the suburbs, the suburbs would besides obtain the full benefit of its own increase of taxation as well. It was evident, therefore, that the benefit of this measure to the residents of the suburbs was more than to the town, because they would have to pay only a portion of the additional amount which would be available for expenditure upon their sanitary requirements.

For the rest, the only remaining point essentially connected with amalgamation which required consideration was the new arrangements which should be made to divide the town into wards. The Draft Bill followed in this respect the letter which was written by the Government of Bengal to the Government of India. It kept the present town wards unchanged, and it divided the new area of the suburbs into seven more wards, making 25 in all. Many of the town wards now elected three members, but in the Bill the representatives of each ward were limited to two. These made fifty elected representatives for the new area. The same proportion would be retained between the elected and nominated Commissioners, who would be raised therefore from 72 to 75. This hardly seemed to him the division which would work best, but in this respect the Government measure which he now had the honour to lay before them would, undoubtedly, receive the fullest consideration, and he had no doubt that any division into wards which the weight of public opinion might indicate as preferable would be adopted. For himself, he was bound to say that for various reasons he thought the creation of larger wards would work better than of smaller wards.

This opportunity would of course be taken to amend the Act of 1876 in many other respects. It was obvious that a ten years' experience must have drawn attention to many detailed defects in that legislation, and this opportunity would be taken to consolidate into one Act all existing Acts and also to amend details. So far as this was concerned, the Bill in its present stage only remedied some of the more obvious defects, and left others for future consideration. The Select Committee would have full information before it, and therefore the present Bill did not endeavour to amend nearly all those details. On the other hand, where there appeared to be *primâ facie* considerable force in any proposals which had been made, those proposals had been introduced into the Bill, but even as regarded these any objection which would be taken would receive the fullest consideration. In all these matters the Bill in its present shape was tentative. The only alterations which he need refer to were the suggestions which had been specially addressed to the Government in a recent petition of the rate payers and inhabitants of Calcutta, in which ten or twelve specific important amendments of the Act were pressed upon the Government. To most of these the present Bill had given effect partially or entirely; though one or two which required fuller consideration had been postponed. Especially those had been given effect to which placed greater responsibility upon owners in the case of busti property. It appeared to him that both in the Bill of 1876 and in the discussions which then took place, the case of the owners had been pressed with more ability than the case of the tenants, especially tenants-at-will who lived in bustis. More weight was given at the time to what were considered the rights of property than what were called its duties. The present Bill aimed, to a certain extent, at remedying this; more especially in the matter of busti property. The Bill held owners liable for the use of that property by them. In the case of these tenancies no leases of any kind were given, the land was not parcelled out into separate parcels, but huts

were built promiscuously on them in a way which presented one of the chief difficulties in carrying out municipal administration.

The sections regarding voting had been entirely recast. This had been done not with the intention of making any substantial alterations in the present system, or of placing the franchise to any large extent in the hands of any class different from those who exercised it at present, but the existing sections of the Act were meagre in the extreme, and the right of voting had been a matter of practice, custom, and the discretion of the Chairman. The present qualification of voters was a payment of Rs. 25. In respect of that the Bill proposed to substitute an assessment of Rs. 300, which was substantially the same thing. For various reasons, it was thought better to give the vote to property as entered in the assessment register rather than to the rates as paid. The owner or occupier would thus no longer lose or gain a vote according to the rate of taxation. Under the proposed system, as the assessment or valuation remained the same, it qualified for a vote, whether the rates were raised or lowered. New sections had been introduced to regulate cases in which the members of a joint family or partners or the members of a firm would be allowed to vote. At present the law was silent on this point, and it was a mere question of interpretation of what was the probable intention of the Legislature. The present Bill fixed six as the maximum number of votes, partly because this was a reasonable number, and partly because it was the number of plural votes allowed in the English statutes for the local franchise, so that if there were six joint members, each would have a vote if they were possessed of property assessed at Rs. 1,800 or upwards.

In one respect he feared the present Bill must prove a disappointment; that was to say to both the extreme parties in the city whose expectations from it were so widely different that it was impossible to satisfy them. In many quarters it had been supposed that the recasting of the Municipal Act would be taken as an opportunity to undo the legislation of 1876. It was supposed that that legislation was so far a failure in that it put all power in the hands of what he might call the stationary party, and that it was the duty of the Government to remedy this. On the other hand, it was considered by others that that measure was so entirely and brilliantly successful that after the experience of ten years, steps should be taken to go further in the same direction and to extend what was then granted. The present Bill was an endeavour to treat both the extreme parties fairly and impartially. On the one hand, the proportion of nominated to elected Commissioners and the general constitution of the Corporation were left unchanged. On the other hand, it had been felt that all reasonable representations which manifestly had force in them ought to receive careful consideration, and therefore, so far as regards the constitution of the Town Council, it was considered that something ought to be done to place that body on a footing determined by law, and also to regulate its number and constitution. The present Town Council had grown up under the force of circumstances. It was constituted by the Commissioners themselves, and he thought all who were not interested in keeping up the number admitted that, when it was

largely attended, it was too large a body for the ordinary despatch of business. Also the Town Council necessarily exercised very great power and influence in the affairs of the Corporation; and, therefore, as in the Act of Bombay, it seemed that the relative influence of the nominated and the elected members of the Corporation ought to be preserved in the Town Council. This always had been done in one sense. The present Town Council consisted of twenty elected Commissioners and ten nominated Commissioners, but the value of this allotment was much affected by the arrangement under which the selection rested entirely with the Commissioners in meeting. The majority of the Commissioners being themselves elected, it followed that, if there was any contest for election to the Town Council, experience showed that these nominated Commissioners would be elected who would rather be representatives of the elected majority than representatives of the nominated minority. The Council had before them the case of Bombay, where the Town Council was recognized by law from the first, and where it had worked extremely well. There the Government nominated to the Town Council in the same way as it did to the Corporation itself. The present Bill therefore proposed to limit the number of the Town Council to 15 instead of to 30, and of these, ten would be selected by the elected Commissioners, the town being divided into five groups of wards, and the other five members would be selected by the Lieutenant-Governor. Representations had also been made by Mr. Harrison himself, and also by a petition of the rate-payers and inhabitants of Calcutta which had already been laid before the Government, that it was extremely difficult for business men to attend meetings of a body like the Town Council, the proceedings of which were necessarily protracted, and the attendance at which was never regular. Therefore, while the example of Bombay was followed as to the constitution of the Town Council, it should also be placed on the same footing as regards payment of its members. The present Bill proposed that all the members of the Town Council should receive a fee of Rs. 20 for each attendance, except, of course, the salaried officers of the Corporation. As he had said, he had no doubt that in some quarters this Bill would be regarded as disappointing, because it went no further in one direction or in the other. But he considered the example of Bombay, where they had not travelled nearly so fast towards a purely representative Corporation as in Calcutta, to be a very good one, and it should be recollected that the new Corporation would have a task of an exceedingly difficult kind, and therefore it was very desirable that it should be constituted with due regard to the interests of all classes interested in the enlarged Municipality of Calcutta. The work that they would have to undertake in considering the sanitation of the new area entrusted to their charge was a work of very great difficulty, and, above all, of very great difficulty for a large body to undertake; for generally it was found that large bodies were far better suited to maintain things in *statu quo* than for the task of origination and construction. The new Corporation had to extend to the suburbs the water-works and the drainage works on the lines on which they had been laid down in the town. The first great difficulty would be how far the great systems of drainage and water-

supply ought to be, consistently with justice and consistently with circumstances, extended to the suburbs. It would also have to be considered how far the present sanitary system of the town might be enlarged and improved. The new body would have, in effect, to constitute a Sanitary Department for the suburbs and to some extent for the town also. That would require great experience and great forbearance, and he was bound to say that it seemed to him very undesirable to make any radical alteration in the constitution of a body which had been built up on certain lines, and which would have entrusted to it a task of such importance and magnitude. He might mention that there was one provision in the Bill which was specially directed to meet this difficulty. It was not proposed that the new body should be elected till one year after the Bill became law. Till then all the members of the Town Corporation and of that portion of the Suburban Corporation which would be amalgamated with it would continue to hold office, as great benefit would be derived from using during the first year—the period of construction—the experience already gained by its members, instead of entrusting so difficult a task to a newly-elected body.

The HON. MR. ANUNDO MOHUN BOSE said that the Bill had been circulated to the members only last evening, and in some cases later; he did not think it would be of any advantage under the circumstances to enter into a discusssion on it then. He understood that the object of introducing the Bill in its present stage was to invite discussion and elicit opinion from the public. He trusted that the report of the Committee on which the Bill was based, together with all the other papers bearing on it, would also be circulated to members.

HIS HONOUR THE PRESIDENT said that it would not be necessary at this stage of the proceedings to enlarge upon the objects and reasons of the measure, as those had been very clearly and succinctly stated by the hon. member to his left. He would only take this opportunity of saying, with reference to the remarks which had fallen from the hon. member to the right, that the desire of the Government had been to present this Bill to the Council in fulfilment of the pledge which the Government gave when it was reviewing the report of the Hon. Mr. Reynolds' Committee in reference to the question of the amalgamation of the Town and the Suburbs—a pledge that legislation would be undertaken this year, but should not proceed beyond the introduction of the Bill. This Bill, which concerned the health and the sanitation of this great city of Calcutta, affected a variety of interests, and he had no doubt that it would receive very ample criticism and examination both from the town and suburban Corporations, and that due consideration which it deserved. It being placed before the public now, on the 10th of April, they had before them at least seven or eight months before the Council would re-assemble for the fullest consideration of all its details. HIS HONOUR had hoped thereby to anticipate also another class of objection, which he regretted to find had become frequent, and that was that when a measure had been produced; when it had been for months under the exact and detailed examination of all those who were concerned in it; when it had been brought forward in that

[*Mr. Harrison; Mr. Reynolds.*]

Council and had been threshed out by a Select Committee; and lastly when it was presented in its final form—the objection was taken that the Government had been actuated by unnecessary haste in forcing the measure through the Council. His Honour hoped that the lapse of the seven or eight months during which this Bill would be published would give the amplest opportunity for the fullest enquiry, so that they might look forward to the end of the year, when they met again, to proceed with the Bill with a strong Select Committee, whose labours, he hoped, would be concluded in time to enable the Bill to be passed through the Council before that session closed. With reference to the remarks of the hon. member who last spoke, His Honour would give him the assurance that as soon as he received the official reply from the Government of India to the letter he had addressed to them two months ago on the subject of this Bill, unless any objection was raised to the publication of the papers, he would be ready to place before the hon. member and the public generally all the correspondence connected with this Bill. He would suggest to the hon. member in charge of the Bill that the appointment of the Select Committee should be deferred for the present.

The motion was put and agreed to.

STEAM-BOILERS AND PRIME-MOVERS ACT, 1879, AMENDMENT BILL.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to amend Bengal Act III of 1879 be taken into consideration. He said that the Bill had gone through very extensive changes in its progress through the Select Committee. The communications which had been received on the subject of the Bill showed that the current of public opinion was strongly against the Bill in the form in which it was originally introduced and referred to a Select Committee, and in consideration of the opinions which the Select Committee had before them they had entirely recast the Bill and restored it to the form in which the members of the Boiler Commission had originally suggested that the Act should be amended, by simply striking out all words which referred to the inspection of prime-movers.

The motion was put and agreed to.

The Hon. Mr. Reynolds moved that the Bill as amended be passed. He said that although the changes which had been made were very considerable, they had been in accordance with the expression of public opinion on the subject, and as no amendments had been placed on the notice paper, he thought he might assume that the Council was in favour of passing the measure in its present shape.

The motion was put and agreed to.

The Bill was passed accordingly.

VILLAGE CHAUKIDARI ACT, 1870, AMENDMENT BILL.

The HON. MR. GARRETT moved that the clauses of the Bill to further amend Village Chaukidari Act, 1870, be further considered.

The motion was put and agreed to.

The HON. MR. GARRETT said that he wished shortly to explain the reasons for the amendment which he was about to move. Section 38 of Act VI of 1870 provided that every chaukidar who might be guilty of any wilful misconduct in his office or of neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code, and not being of so grave a character as in the opinion of the Magistrate to require his dismissal from office, should be liable to a fine which should not exceed the amount of one month's salary. It seemed to the Select Committee that there might be cases in which a chaukidar might commit some act or omission which technically amounted to an offence within the meaning of the Penal Code, but which being trivial in its character was not worth the trouble of a criminal prosecution: such acts, it seemed to the Committee, might be sufficiently punished departmentally. But it had been pointed out that in doing that the Committee had somewhat unwittingly gone against the general principle that all acts amounting to offences under the Penal Code should be dealt with in the manner provided by that Act and not otherwise. He thought it best therefore to ask the Council to leave out section 8 of the Bill, and he now moved that the section be omitted.

The motion was put and agreed to.

The HON. MR. ANUNDO MOHUN BOSE moved that after the second proviso in section 2 the following words be added:—"unless the Magistrate of the district shall concur in these reasons, if any, the persons selected by the villagers shall be appointed as punchayets." He said that there was one point in connection with this section which was left in a somewhat dubious state, and he thought it would be desirable to clear up the doubt before the Bill was passed. The section provided that the appointment of the punchayet should rest with the District Magistrate, but he was required to take special means to ascertain who, in the opinion of the villagers, were the fittest persons for the office; and for this purpose a magisterial officer was to be deputed who, if he found that there were special reasons why the nomination of the villagers should not be accepted, must record his reasons for so determining. There was, however, one step left doubtful, viz. what was to happen after that? Evidently the section meant that in cases in which the selection by the villagers of the most proper persons to be appointed met with the approval of the special officer those persons should be appointed to the punchayet. In cases in which that officer was not prepared to accept the selection made by the villagers, he was to record special reasons for his differing from that opinion, and in such cases no doubt the controlling power would be in the hands of the Magistrate. If he did not agree with those special reasons, or if no such reasons were recorded, he would confirm the selection made by the villagers;

but if he agreed with those reasons, he might set aside the selection of the villagers. Under these circumstances, it seemed desirable to make the matter clear by adding the words of the amendment.

The Hon. Mr. Garrett said he was sorry he could not accept the amendment of his hon. friend opposite. It was no doubt the intention of the Legislature that the wishes and opinions of the villagers should be respected, but it was going a step much further to say that the Magistrate was bound to accept the opinion and wishes of the villagers. He certainly was not prepared to concede to the villagers the power of electing their punchayets. It was quite possible that in certain cases some portion of the villagers might select some person whom it was highly undesirable to appoint. He believed that in every case in which the Magistrate of the district could do so properly he would always respect the opinion of the villagers; but as he thought the Council had already agreed that they could not properly concede to the villagers the right of electing their punchayet, he could not consent to an amendment which, if passed, would practically concede the right. He agreed that the Magistrate should respect the wishes of the villagers, but he could not agree that the Magistrate should be bound by a hard and fast rule to accept their nominees.

The Hon. Rai Jai Prokash Lall Bahadur supported the amendment. He thought it was only proper that if the Magistrate did not concur with the special reasons assigned by the officer deputed to the village, the nomination of the villagers should hold good.

The Hon. Mr. Reynolds considered the amendment unnecessary. When the list was submitted to the Magistrate, he would have before him the names suggested by the villagers as persons fit to be appointed the punchayet, and he would also have before him the special reasons recorded by the officer for appointing other persons, and it went without saying that unless those special reasons were of sufficient weight to induce the Magistrate to reject the nomination of the villagers, he would confirm their selection; and therefore it seemed to Mr. Reynolds that the amendment was superfluous and uncalled for.

The Hon. Mr. Anundo Mohun Bose said he did not think it necessary, after what had fallen from the Hon. Mr. Reynolds, to press the amendment. All that he wanted was that there should not be a power in the Magistrate to override the wishes of the villagers, and that view was strengthened by the last proviso of the section, which laid down that in every village to which the Act had already been extended, the Magistrate should, as soon as might be, ascertain in the manner previously indicated the persons most proper to be appointed members of the punchayet, and should appoint them *accordingly*. That no doubt gave additional strength to the interpretation which had been attached to the section by the last speaker, and removed any ambiguity which might have attached if the second proviso had stood by itself. He therefore would ask leave to withdraw the amendment.

The motion was by leave withdrawn.

The Hon. Rai Jai Prokash Lall Bahadur moved that section 66 of Act VI of 1870 be repealed. It would be seen that the section provided

that any liability, duty, or obligation cast upon any zemindar by the existing law to report crimes or offences within his estate should not be affected by the Act. Hon. members were aware that the origin of the theory that the owner of land was bound to report crimes which might be perpetrated on his estate might be traced to the Regulations which were passed between 1810 and 1814. In those primeval times the zemindar was supposed to reside on his estate and to preside over and control the action of the village community of every village which belonged to him. Means of communication were extremely rude, and the regular police was conspicuous by its insufficiency. It was but natural therefore that the Government should then look to the landholders for supplying it with correct and early information about the commission of offences against life and property. And apart from the question whether the obligation thus created was founded upon principle of justice or not, it was at any rate not difficult of fulfilment.

This state of things had been totally changed, and yet the obligation continued in all its integrity. The last Statute which laid it down was section 45 of the present Code of Criminal Procedure. This was not the place nor the time to discuss the propriety of repealing that section. But as the Council was considering how far Act VI of 1870 should be amended, he thought they ought to see how far they were justified in retaining in the Act words which accentuated an obligation out of harmony with the present conditions of our national life. The village community had been disintegrated: the Bill would give it the final death-blow. The landholder was no longer the motive power which could move the village organization in response to his will: he existed on sufferance only, and had lost all his prestige and all his influence by the operation of the Bengal Tenancy Act, and he had been relieved of police charges and deprived of all control over village watchmen. It was only proper therefore that this Council should no longer retain on its Statute book a section which laid down a doctrine which should now be absolute.

The HON. MR. GARRETT said he could not accept the hon. member's amendment. He must complain that at the eleventh hour the hon. member should move so important an amendment on a section of the original Act which had not up till the present moment been touched upon in any of their discussions. The duties and liabilities which the hon. member sought to sweep away had been imposed on the landholders by what he might call the common law of the country. He did not think that any member of the Council was disposed to relieve the landholders of the very wholesome public burthens imposed on them by the General Acts and Regulations, and he would therefore oppose the hon. member's amendment.

The HON. RAI JAI PROKASH LALL BAHADUR said there was no doubt that the principle contained in section 66 of the Village Chaukidari Act was laid down in the Code of Criminal Procedure. If the matter rested there alone, his amendment would be *ultra vires*, but the same principle was recognized by section 66 of Bengal Act VI of 1870, and as the Council were considering the amendment of that Act, he contended that that section of the Act should be

repealed. There was no doubt that section 45 of the Criminal Procedure Code put the responsibility of reporting crime on the zemindar, and this Council could not repeal that law. But if section 66 of Bengal Act VI of 1870 was repealed, the zemindars could move the Imperial Council with their hands strengthened, and if the Government of India accepted their appeal, it would relieve the zemindars of the responsibility; but without the repeal of the section in the Bengal Act the responsibility would remain with the zemindars.

The motion was put to the vote and negatived.

The Hon. Rai Jai Prokash Lall Bahadur moved that the following be inserted after section 15 of the Bill:—

"*Section* 15.—After section 67 the following shall be inserted:—

"67A.—It shall not be competent to the Magistrate, notwithstanding anything contained in this or any other Act or Regulation to the contrary, to require any zemindar or any person holding land to appoint or maintain any chaukidar for the purpose of keeping watch or ward over a public road or a public ferry."

Hon. members might not be aware that in the Shahabad district the local authorities required the zemindars to maintain a costly establishment of chaukidars to watch the public roads and the public ferries. Whether the same practice obtained in any other district he could not say. These roads were constructed and maintained by Government and the Road Cess Department, and the zemindars and the people had to pay a tax for the same. The ferries, again, had been resumed by Government and were sources of large revenue to them. That being so, one might think that the Government would provide for the watch and ward of these places, but this obligation, somehow or other, seemed to have been allowed to remain on their shoulders. Where the question of ways and means was concerned, it might be considered desirable to thrust the burden on the zemindars, but it was doubtful whether they would now be disposed to accept it without demur.

Now, what was the authority on which this obligation rested? Why should the landholders of all other people in the country be selected as the persons who should pay for the protection of Her Majesty's mails from robbery or passengers from unwelcome visitors? He submitted that the maintenance of these road and ghât chaukidars at the expense of the zemindars was a grave injustice. The Government levied many taxes. It carried on an extensive postal system for administrative purposes; it derived enormous revenues from its public ferries, and still apparently without any law or authority it compelled the zemindar to provide for the discharge of duties which legitimately belonged to it alone and with which the landowner had nothing to do.

His Honour the President asked under what regulation or law the practice, to which the hon. member referred, was in force in Shahabad. He presumed that the practice had reference to the duties and obligations connected with what were known as chakran chaukidari lands.

The Hon. Rai Jai Prokash Lall Bahadur could not say under what authority these services were required of landholders, but he could show

[*Rai Jai Prokash Lall; The President; Mr. Reynolds; Mr. Cruickshank.*]

His Honour an order under which the Maharajah of Doomraon was required to maintain these chaukidars. These roads led to the ferry ghâts, the ferries at which had been resumed by Government. The Maharajah had moved in the matter, but got no redress. When the ferries belonged to the zemindars, it was right that the zemindars should provide for the watch and ward of the ferry ghâts and of the roads leading to them; but when they had been resumed by Government, and the profits no longer went to the zemindars, it was but right that the obligation to maintain chaukidars should be removed. This state of things had gone on for a long time: the chaukidars were paid by way of salary and grants of land.

HIS HONOUR THE PRESIDENT said that he must intimate to the hon. member that it was not proper to place on the notice paper an amendment of this character at the last stage of the proceedings connected with the Bill. If what the hon. member complained of was a grievance, he should have submitted his amendment at an early stage to the Select Committee, of which he was a member. And even now, if there was a real grievance, he could represent it to the Government through the Commissioner, and HIS HONOUR could assure the hon. member that any representation which might be thus submitted would be carefully enquired into.

The HON. RAI JAI PROKASH LALL BAHADUR by leave withdrew the amendment.

The HON. MR. GARRETT moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Bill was passed accordingly.

VACCINATION ACT, 1880, AMENDMENT BILL.

The HON. MR. REYNOLDS moved that the clauses of the Bill to amend Bengal Act V of 1880 be considered. He said he need not detain the Council on this occasion because at the last sitting he had explained the changes which had been made in the Bill, and he then gave notice of the present motion. No amendment had been placed on the paper, and he was not aware that any further objection would be taken to the Bill.

The HON. MR. CRUICKSHANK desired to say, in reference to the objections which had been made by the Chamber of Commerce on behalf of the mercantile community when this Bill was introduced, and especially with regard to the very extensive powers which were proposed to be conferred on the Health Officer of the Port, that the modifications which had since been made by the Select Committee after very carefully considering the subject seemed to meet the objections which had been taken to the Bill as it originally stood, and he now gave his support to the Bill as it had been amended.

The motion was put and agreed to.

The HON. MR. REYNOLDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Bill was passed accordingly.

The Council was adjourned *sine die*.

PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

The Council met at the Council Chamber on Friday, the 17th September, 1886.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. H. L. Harrison.
The Hon. Jai Prokash Lall Rai Bahadoor.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.

CALCUTTA MUNICIPAL ACT, 1876, AMENDMENT BILL.

The Hon. the President said:—Before I call upon the Hon. the Advocate-General to bring forward the motion which stands in his name, I think I had better briefly explain to Hon. Members the circumstances which have led the Government to intervene in this matter. It was during my visit here in July and August that I had interviews with several gentlemen of the native community, who represented, at the instance, I believe, of the Municipal Commissioners of Calcutta, that discoveries had been made with regard to the adulteration of an article of food which is very commonly consumed among them. I had also an interview with my hon. friend Mr. Harrison, who affirmed that statement, and it became a point for consideration whether the Government should interfere in the matter or not. It was shown by analyses which were made of the ghee that, in the opinion of experts, it was not noxious to health, but that it contained substances which were most objectionable and offended most seriously the religious susceptibilities of both Muhammadans and Hindus alike. The offence therefore could not be touched under the Penal Code, and if the Government had to do anything, it must be by fresh legisla-

tion. Under these circumstances, I obtained the assistance of the learned the Advocate-General in framing a draft Bill for submission to the Government of India, with a statement of all the facts to which I have now alluded. I had then to leave Calcutta on tour, but before I did so I had several interviews with native gentlemen, some of whom I see present to-day, and it seemed to me from the expression of their views that though they would have preferred that the matter should be taken up by the Legislature at once, they were satisfied with the fact that the Government had announced its intention to bring in a Bill on the subject, and said that the publication of the Bill and giving the widest publicity possible to it would allay the excited feelings of the people for the time. I then left Calcutta, in the belief that it would be sufficient if the Bill was taken up in November. Since then I have received several communications, and Hon. Members are aware that there is a great excitement and almost a panic upon the question of adulterated ghee. I thought it my duty, therefore, to ask for the sanction of the Government of India to proceed at once to introduce the Bill. The Bill, I believe I am right in saying, has been drafted on the lines of the English law on the subject. It is, as you are all aware, a measure which chiefly concerns the natives: Europeans are not affected by the adulteration of ghee, and the way in which the urgency of the matter has been pressed upon me is that, as ghee is used like water during the great festival of the Durga Pujas, it is very desirable that legislation should be taken in hand, and that the Bill should be passed before those holidays commence. Therefore we have a Bill which the native community very urgently want, and they also want it to pass in a very short time. Since my arrival I have had placed in my hands memorials from the Howrah, Suburban, and Patna Municipalities, from the Muhammadan Association, and from the Health Society, all asking for a Bill of a much wider scope, and also asking for the extension of the provisions of the Bill to the mufassal. It will remain for the discussion which will probably ensue to show what course should be taken with regard to these suggestions; but all I wish to say is that, if the Bill is to be a large one, larger than the one we have before us to-day, and involves questions of technicality or difficulty, it will scarcely be possible to pass that Bill within the short time remaining between this and the commencement of the holidays. But this will be a point which will come up for consideration after my hon. friend makes the motion which I now call on him to move.

The HON. THE ADVOCATE-GENERAL said:—I shall briefly introduce the subject on which legislation is sought, and I think a very few words will suffice to impress upon the Council the importance and gravity of the legislative measure which I am about to propose. Ghee which is, or ought to be clarified butter, is, as Hon. Members are aware, extensively used as an article of human food, and its purity, as it appears to me, is necessary, if not indispensable, to health; but when it is adulterated in the manner I am about to describe, its use is not only deleterious to health, but offensive to the religious sentiments of the inhabitants of India, and destructive of their caste. It has lately been discovered that the ghee sold in the shops and bazars of Calcutta is adulterated

with mutton and beef fat, and lard and other greasy and oleaginous matter. This discovery has produced great, I may say wild, excitement, dismay, and disgust among the native inhabitants of Calcutta, both Hindu and Muhammadan, who naturally regard the admixture of such substances as I have mentioned with the pure article as an outrage on their religious tenets and feelings, and justly consider it prejudicial to their health. I have reason to believe that thousands of persons, especially the Marwaris, than whom a more peaceful and industrious race scarcely exists in India, have left off the use of ghee, and are now living upon dry rations, with a view to atone for the sin they have committed, though unconsciously, by using the adulterated article. The richer classes of Muhammadans and Hindus have been subjected to great expense and inconvenience in importing ghee from distant places, while the poorer classes have been obliged to abstain from using an article of food so essential to their daily wants. Under these circumstances, it cannot but appear to the Council that the adulteration of ghee in the manner I have described is an abominable malpractice, an evil of the most serious kind. The evil is of recent birth, but of rapid growth, and deserves to be repressed in a firm and determined manner. It is for that purpose I propose to bring in the present Bill.

But before doing so I will make a few remarks on the existing law, the opinions which prevail on the nature of that law, and the probability of bringing offenders to justice under its provisions. Section 272 of the Penal Code, with reference to the adulteration of articles of food or drink, says:—"Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both." Section 273 relates to persons who sell articles of food or drink with the knowledge that they are noxious &c., &c. No doubt experts and men of note, whose opinions are entitled to great weight, have declared that the intermixture with ghee of fat and other matter of a similar kind does not make it noxious as food. I shall not attempt to discuss that subject, because it is sufficient for my present purpose to state that, having regard to the delicate frame and constitution of the natives of Bengal, this opinion will scarcely be accepted. I think that ghee adulterated with fat and substances of a like nature cannot but be more difficult of digestion than ghee or clarified butter; and if it be so, it naturally follows that with the classes to which I have referred it must produce, in a great many instances, indigestion, and consequently the ordinary train of maladies incidental to that complaint. If that be so, it may fairly be taken that the adulteration of ghee in the manner I have described is prejudicial and noxious to the health of the people of Bengal. Whether it is so or not in reference to Europeans and the hardier races of India is foreign to my present purpose. The universal native opinion is that adulterated ghee is noxious to health, and it can be scarcely doubted that if a person were

indicted in respect of an offence either under section 272 or 273 of the Penal Code before a jury composed of native gentlemen, and it were proved that he had either adulterated ghee with the intention of selling it, or sold or offered for sale adulterated ghee with guilty knowledge, he would be found guilty of the offence charged against him. But however that may be, if we assume that these sections do not apply to the adulteration of ghee with fat, I think that section 415 of the Penal Code, which provides for the offence of cheating, clearly applies. I take it that the palming off of an adulterated or spurious article as genuine upon a person who, if he knew it was adulterated, would not purchase it, is a form of cheating of the highest conceivable order. The terms of the section are sufficiently wide to embrace such an offence as that. Section 415 says: "Whoever by deceiving any person fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to cheat." I think all the elements of cheating as given in that section apply to the case of the sale of adulterated ghee by a person cognizant of such adulteration. There is the fraudulent intent, there is the dishonesty in the making of unlawful gain, and the further element the inducing of a person to do something which that person would not do if he were not so deceived. Therefore, if the earlier sections of the Code to which I have referred do not apply, this section will apply; and I think that if a proper prosecution were instituted before the authorities, there would be a fair and reasonable prospect of conviction. But the above sections do not touch those persons who profess to sell adulterated ghee in ignorance of the fact of adulteration. It is very difficult to believe that a person who sells adulterated ghee does not know that it is adulterated, but at the same time it is difficult to bring home to him the knowledge of adulteration, and it is for this class of cases that the present Bill has been devised, namely, to make all persons who sell adulterated ghee criminally responsible.

The Bill is already in the hands of Hon. Members, and I will only say briefly that the first clause (section 2) dealt with that subject by amending section 292 of Bengal Act IV of 1876. The other sections, except the last, extend the operation of section 292, and make it more workable than it now is. The law about to be introduced, as His Honour the Lieutenant-Governor has already observed, is adapted from the English Act. It will be novel in its application here, but not so in its conception, and it is hoped that it will have the effect of allaying, to a very great extent, the complaints which have been made by the native community. It will depend on the Executive authorities to set the law in motion, and I have little doubt that, when this Bill is passed and its provisions properly administered, the feelings of dismay and apprehension which now exist will be dissipated. If any one subject above others commends itself to our legislative

intelligence and sympathy, it is that which concerns the welfare and happiness of large classes of Her Majesty's subjects. I therefore confidently apply for your sanction to enable me to introduce the Bill.

The motion was put and agreed to.

The Hon. the Advocate-General then applied to the President to suspend the Rules for the conduct of business to enable him to move that the Bill be read in Council.

The Hon. the President having suspended the Rules—

The Hon. the Advocate-General moved that the Bill be read in Council.

The Hon. Rai Jai Prokash Lall said:—I am afraid the Bill before the Council will not satisfy the requirements of the grave crisis in which the people now find themselves. Throughout the whole province of Behar there is a strong feeling on the subject. I hold in my hand a telegram which I received only this morning. With His Honour's leave, I shall read it to the Council [read]. The telegram is only typical of the general panic that has seized the population, and it is spreading. What we want, therefore, is not an amendment of the Calcutta Municipality Act of 1876, but a separate and independent Act altogether for the prevention of the adulteration of food in all places under the Bengal Government, where there may exist Municipalities, District and Local Boards, Union Committees, and Punchayets under the Chowkidari Act. To each of such places the Act may be extended with such modifications as may be deemed proper by the Executive Government; and these bodies may be invested with certain powers in respect of the prosecution of offenders.

It may be argued that in places outside Calcutta adequate means do not exist for chemical analyses of adulterated food. This argument is of no weight. In cases of suspected poisoning contents of stomachs are almost daily sent down to Calcutta, and there is no reason why samples of food may not be sent down in the same way.

The legislation on the subject should not only be directed against the prevention of sale or storage of adulterated food, but also against its manufacture, and not only food which is injurious to health should be interdicted, but also food adulterated with articles hurtful or offensive to the religious feelings of the people. It is to be remembered that the main features of the Bill are reproduced from English legislation. But in England there exists no religious prejudice against the use of lard or other animal fat. I regret to find also that a fine of Rs. 100, which the Bill seeks to impose for the sale of adulterated food, is by far too small and too inadequate for the offence, when we remember that a dealer makes thousands of rupees a month by carrying on his obnoxious trade. The maximum fine should be sufficient to act as a real deterrent to every class of dealers, and it should be distinctly provided that persistent repetition of the offence shall be visited with heavier fine.

The Hon. Lalla Ban Behari Kapur said:—While admitting the usefulness and necessity of the measure, I regret my inability to accord to it my cordial support on account of its narrowness of scope, which renders it almost feeble in comparison with the magnitude of the evil which the amendment is

intended to remove. In order to meet a grievance which is felt throughout India, we must devise a remedy which, if not exactly co-extensive with it in its operation, should at least be reasonably commensurate with its vast extent. Let Calcutta have a protective law by all means, but similar legislative help must be extended to the other parts of Bengal as well.

The Act must bring within its scope all the different centres of ghee trade in Bengal. This article, which is as much an essential of life to the Hindu, as meat, butter, and pastry put together are to the European, has of late been placed under a ban, and the sufferings of all classes of the people who use it in almost every one of their dishes can be better imagined than described.

As ghee forms the most essential element in sacrificial and propitiatory *homa*, this panic of ghee adulteration has caused a deadlock in all important religious and purificatory ceremonies of the Hindus—a people that are more sensitive on points of religion than on any other point of vital importance.

So the evil on account of its magnitude and emergency calls for immediate legislation on the part of the Imperial Council, and I respectfully ask Your Honour to move it to take prompt steps towards the introduction of such a Bill. Your Honour, I hope, will, in the meantime, inaugurate a measure that will govern the whole of Bengal, especially those places in the western parts of it which may be regarded as the fountain head of all adulteration.

The punishment prescribed in the Bill seems to me to be out of all proportion to the enormity of the offence. The practice of adulteration, especially when it is adopted on an extensive scale, is so lucrative that those who thrive by it may well risk the small penalty in case of detection, the chances of which as against those of escape are too slight to have a deterrent effect upon dishonest traders. With respect to the opinion of doctors about the harmless nature of lard, &c., as mixed with ghee, I think that, however innocuous they may prove to persons who consume them daily, they are sure to have a deleterious effect upon the Hindus, the majority of whom live upon a strictly vegetable diet, and abstain on principle from all sorts of animal food. Besides, it happens most curiously that the ingredients mixed with ghee are of such a nature as to be repugnant to the religious feelings of the Hindus and the Muhammadans alike; and these two sections of the community, it must be allowed, form the bulk of the Indian population. I beg leave to suggest, in conclusion, that all adulteration of articles that are sold as pure, with ingredients however unobjectionable in themselves, should be made punishable by law, inasmuch as everybody has a right to insist upon having the identical article for which he pays a fair price, and to object to having things which he has not bargained for. It is a clear case of swindling, when having paid for one thing a man is offered quite another.

The contemplated measure, therefore, commends itself to us on economic grounds apart from all considerations of religion and usage.

The HON. MR. ANUNDO MOHUN BOSE said:—After the remarks which have fallen from my hon. friends to the left, I should have felt considerable reluc-

tance in addressing the Council but for one consideration, namely, that it occurs to me that it is possible, even by immediate legislation, to extend the scope of the measure at any rate to the whole of Municipal Bengal. But before I come to that point, I think it my duty to express the gratitude of the whole community for the readiness with which Your Honour's Government has responded to the appeal which has been made to it, and for the sympathy with which Your Honour has listened to the expressions of a grievance which in some quarters was almost assuming the proportions of a disastrous panic. With regard to what has fallen from my hon. friends as to the desirability of extending the scope of the proposed legislation, I am entirely at one with them, and it seems to me that the anxiety for that legislation will become all the greater in consequence of the passing of this Bill. I need not point out the anomaly of having a matter, which is viewed with the highest moral abhorrence by the whole Hindu and Muhammadan community, and which, if this Bill passes into law, will be legally punishable in Calcutta, yet remaining beyond the reach of law or punishment on the other side of the Circular Road or in Howrah across the Hooghly; and the position of these municipalities will, indeed, be worse after the passing of the Bill, for all the adulterated ghee which now finds its way to Calcutta will readily be passed over to the neighbouring municipalities and their second state will be worse than the first. Has this Council the right by its own action to thrust this evil, to inflict this wrong, on their inhabitants? Therefore, I would ask the Council earnestly to consider whether it may not be possible at once, without taking in within the scope of the Bill the whole of Bengal, to include at least the whole of Municipal Bengal within its operation, and this, I would beg to point out, may be done easily enough. I may mention that I have received intimation from a gentleman of high respectability that even in places so remote as the trade centre of Jhalakathi, in Backergunge, a great deal of adulterated ghee has recently found its way, and I have also received a telegram, similar to that to which reference has already been made, from the People's Association of Behar asking for the extension of the Bill to the mofussil; and this, as well as many other indications, show that the feeling of anxiety in regard to this burning question, though it has naturally found its earliest and strongest expression in Calcutta where the adulteration was first discovered, has already extended and is fast extending into the remote parts of Bengal and Behar, if not into Orissa. By simply altering a few words of the present draft Bill, it will be possible to embrace within its range the whole of Municipal Bengal. Section 251 of the Mofussil Municipal Act III (B.C.) of 1884 exactly corresponds with section 292 of the Calcutta Act, and that being so, it seems to me that if instead of reading "for section 292 of Bengal Act IV of 1876" we were simply to add the words "and for section 251 of Bengal Act III of 1884," the rest of the section remaining as it is, we shall be able to bring all the municipalities of Bengal within the scope of this Bill. And if a few similar and very slight alterations be made in the remaining sections of the Bill, there will be no difficulty in at once extending its operation to those places where

there is a probability of adulterated ghee or other articles of a similar nature being placed in the market. In those municipalities where the necessary machinery does not exist, the Act will simply be inoperative. I may also draw the attention of the Council to the fact that section 251 of the Bengal Municipal Act finds its place in Part VI of that Act, and therefore it can only apply to those municipalities to which, on the application of the Commissioners and with the consent of the Local Government, the section has been extended, and thus a safeguard will of itself be provided against any apprehension that the Act is to apply to any municipality in which the necessary machinery for working the Act did not exist.

The next point to which I shall refer, and which I throw out simply as a suggestion for the consideration of the Council, is this, namely, whether instead of proceeding on the footing of the English Statute on the subject which is based on purely trade or commercial considerations, it might not be desirable at the present moment to proceed on the basis which is indicated, and, indeed, demanded by public opinion so far as it has expressed itself. The public opinion, which has led to the introduction of the Bill, has been aroused into alarm by the attempt to wound the deepest sentiments, the most cherished religious feelings of the Hindu and Muhammadan communities. Under these circumstances, it may be a matter for consideration whether, while increasing the penalty for adulteration, it might not be desirable, in the present hurried legislation, to provide against only that form of adulteration in which articles exposed for sale are mixed with foreign substances, the presence of which would be calculated to wound the religious feelings of any class of persons, without the fact being notified by the vendor. The Legislature has already separated from the general class of adulterations that special class in which the effect of adulteration is to make the article injurious to health, and has treated it in a very special way. It may be said that in the circumstances of this country there is ample ground for similarly separating and treating as apart and distinct from the rest that class of adulteration the effect of which would be to alarm and wound the religious feelings of the community. In England, of course, the question of adulteration had never presented itself in this particular shape; but in this country, circumstances were different as regards this special aspect of the matter. I place this view of the subject, which has been mentioned to me by some Hindu friends, before the Council for its consideration. Should it commend itself to its approval, all that would be necessary will be to alter the drafting of the first section of the Bill by providing to the effect that no person shall sell any article which is adulterated with any substance, the presence of which is likely to wound the religious feelings of any class of persons, without notifying the fact; and in such cases I certainly think the penalty ought to be made more stringent than merely a fine of Rs. 100.

There is another matter to which I wish to refer, namely, that in case the Council should adopt the view that legislation ought to proceed on the basis of the English Statute, or the purely commercial aspect of the question as apart

from the religious aspect which has convulsed public opinion here and created the demand for this legislation, it seems to me there is one matter in regard to which there has been an omission, and that relates to that important article of consumption—milk. Section 292B enacts that the Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall, or place used for the sale or storage of articles intended for food, and may examine any such articles which may be therein, and, if upon examination such articles or any of them appear to be unfit for food, may seize the same. This is not to apply to that class of cases in connection with the sale of milk where it is delivered at the house in pursuance of a contract entered into with the vendor. The Commissioners would not have the power to inspect, procure, or examine milk thus delivered; and I may draw the attention of the Council to the fact that the English Legislature, after passing the Statute of 1875, 38 and 39 Vic., c. 63, on which the present Bill is based, found it necessary in an amending Act to introduce a special provision (by section 3 of Statute 42 and 43 Vic., c. 30) giving the Medical Health Officer, Inspector, &c., power to procure samples of milk at the *places of delivery*. I hope the Select Committee to which this Bill will be referred will consider the expediency of extending the operation of section 292B on the basis of the English Statute of 1879, so as to include the important class of cases I have mentioned in connection with milk, an article so conducive to health when pure and yet so dangerous in the communication of disease when improperly dealt with. I would draw attention to the provision of the English law in which that special procedure has been found necessary in order that the object of the Legislature might not be defeated.

There is only one other point to which I need refer in this place, viz., to the desirability of a provision to the effect that the burden of proving that an article comes within the exceptions provided in the Bill should be on the vendor himself. That probably is implied, but it would be perhaps better expressly to lay it down, as is done by section 24 of the English Statute of 1875, which provides that when an article comes within any of the exceptions, the burden of proving this shall be on the person who claims that it falls within those exceptions.

With these observations, I will leave the Bill in the hands of the Council.

The Hon. Mr. Irving said:—I notice that the Bill is drawn in general terms, and does not specially refer to the adulteration of ghee, and I think it will be extremely satisfactory if its provisions can be extended, limited of course for the present to Calcutta, so as to deal with all articles used as human food; and while fully sympathizing with our native friends on the subject of the adulteration of ghee, I think that the feeling of the European community as regards the purity of other articles of food should not be lightly set aside, and this seems a fitting opportunity to provide, as far as may be practicable, a check against many extremely noxious and unwholesome practices which are carried on in the preparation of food in this country. It will therefore be very desirable to extend the operation of the Bill to places in which the manufacture or preparation of food is carried on. It is notorious that in our

markets there are many practices which are extremely filthy, and which Europeans would be very glad to see amended; and it would be well therefore to put them under regulation. I will not refer at present to the Bill at any length. I merely call attention to these points, and I have no doubt that the Select Committee will take into consideration the memorial which has been sent up by the Calcutta Public Health Society on the subject of this Bill.

The HON. MR. HARRISON said:—I think it is generally well known that the reason why, in the first instance, this Bill was made applicable in Calcutta was because adulteration was detected in Calcutta, and it was the insufficiency of the Calcutta Act which first attracted attention. When the Health Officer was consulted as to whether the adulteration of ghee in such a manner was noxious to health so as to come under section 292 of the Municipal Act, he gave his opinion that it was not so, and that it would be impossible to obtain a conviction before a Magistrate. At the same time I have little doubt that if Your Honour will give permission, it may be possible in Committee to extend the Bill very much in the manner in which my hon. friend opposite has suggested. Many of the amendments which he has proposed may possibly be found feasible. But the Council and the public ought to recognize that it is essentially necessary that legislation should be deliberate, and we are in this dilemma, either that the measure must be passed substantially as it now stands a Bill of the moderate compass such as we have before us, or, if it is extended, that it should be under consideration for a longer period. I think the public ought to recognize that it is not possible between this and the Durja Pujas to pass an Act of a very comprehensive character, the whole bearings of which should be carefully thought out, and therefore if we are to proceed to legislation immediately the present Bill should be so amended as not to affect its substance. I think also that if we were to recast the Bill on lines merely affecting such adulterations as are offensive to religious feelings, it would cause much disappointment. The speech of the Hon Mr. Irving shows that the European members of the community will be sorry if the opportunity is lost of making adulteration of all serious descriptions penal, and even the Hon. Member who proposed to recast the Bill on the religious basis called attention to one of the provisions of the English Act which he wished reproduced, and which would not come under a Bill thus framed. Then, it has been pointed out that this Bill is very short, while the English Statute is a large measure, but it was not intended that in the first instance this Bill should be more than tentative. There was no reason to suppose that the feeling was so strong as it has proved to be, and it was thought that it would be sufficient to pass a small Act, which might be extended as experience indicated. Moreover, some of the provisions of the English Act could not be incorporated in the Bill, inasmuch as they would involve an alteration of the Evidence Act which this Council was not competent to make. For these reasons, in preparing the Bill, only such portions of the English Act were selected in the first instance as would meet the requirements of the case. It was never intended that the few sections which the Bill contains should eventually form the totality of an Adulteration

Act in India. All that seemed desirable was that, after some experience had been gained, such other provisions as might be found necessary might be enacted. I think the public should be satisfied if such amendments are made as are feasible consistently with care and deliberation in legislation.

The HON. THE ADVOCATE-GENERAL in reply said:—I think the words in section 2 of the Bill are large enough to cover the sale of adulterated milk, to which the Hon. Mr. Anundo Mohun Bose referred, and also to offences against the religious feelings and sentiments of the purchaser. The words are "shall sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser." That section, in point of fact, compels the seller to guarantee the article which he sells. If he sells ghee, it must be "ghee," and if it is adulterated he is liable under the section to a penalty. Then, with regard to the apparent feeling of disappointment which this section has produced in not inflicting a higher penalty than a fine of Rs. 100, I may be allowed to observe that it would be unjust to inflict a larger punishment on a person who has no guilty knowledge of the fact that he is selling an article which does not correspond to the article which is demanded by the purchaser. The sections of the Penal Code to which I have referred extend the penalty to a fine not exceeding Rs. 1,000, with or without rigorous imprisonment not exceeding six months. Those provisions refer to a person who consciously commits the offence; but inasmuch as a person who sells an adulterated article might himself purchase it believing it to be genuine, I should be extremely sorry to see him punished with imprisonment, and I think a fine of Rs. 100 sufficient. Then, section 292B is merely, as I said before, an extension of section 292 of Act IV of 1876 with greater facilities for working, and by providing not only for interference in markets, shops, or stalls, or places for the sale of articles of food, but also in places for the storage of such articles. It may be said that persons of wealth in the ghee trade would not be much injured by the infliction of a penalty of Rs. 100, but I think that a conviction once obtained and known extensively would induce intending purchasers to shun the place of business of the trader convicted, and would thus put a stop to his nefarious trade. This would of itself constitute a severe penalty.

I agree with the Hon. Member, Mr. Harrison, that this Bill was designed to serve a limited purpose and not to extend to all possible cases. I think, however, that the second section will be found to be very wide, and will fairly apply to the sale of articles of various descriptions.

There is one thing more I want to add. In section 292C, these words occur—"and may impose a penalty not exceeding Rs. 100 upon the owner or person in whose possession the same was found, such person not being merely a carrier or bailee thereof." The word "bailee" is here used in the same sense as it is used in the Contract Act, which says that "a bailment is the delivery of goods by one person to another for some purpose upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the "bailor." The person to whom they are delivered is called the 'bailee.'" The moment the goods are delivered to, or

left with, a person for the purpose of sale, he becomes the agent for sale, and does not occupy the position of an ordinary bailee as mentioned in the section.

The HON. THE PRESIDENT said:—Before putting the motion to the vote I would just remark, in confirmation of what has fallen from my hon. friend, Mr. Harrison, that he has, to a very great extent, expressed what I also feel and partly mentioned in bringing forward the Bill before the Council in its present form. If this Bill is to be extended, it can hardly be passed in the time left to us before the holidays. It has been adopted, as has been more than once expressed, as an experimental measure for a limited area. It is thought that if the mischief which was discovered in Calcutta was checked, it will be checked generally throughout the country. I have not been surprised to hear from the speeches which have been delivered by the hon. native members of the Council that it is thought desirable that the Bill should have a wider scope, that it is too narrow in many of its details, and that the penalties contemplated in it are too light. I also listened not with surprise to the remarks which fell from the Hon. Mr. Irving that the occasion should be taken advantage of to introduce into this Bill measures connected with the general question of the adulteration of food, its storage, supervision and other matters which were of interest to him and to the members of the Health Society. But if all these questions are to be taken up, we cannot pass the Bill in the time which remains to us before the vacation, for I shall, in the first instance, be compelled, as a matter of necessity, to publish the Bill for one month. I could not undertake to pass a Bill of that kind without giving it the fullest publicity and without knowing what people outside the Council, and who are interested in it, have to say; and as I understood that the object of intervention now is to adopt a measure which would become law and meet an urgent necessity before the occurrence of the Puja holidays, I think we cannot travel very much beyond the purpose of the Bill which has been framed by the learned Advocate-General. But I may admit that if in Select Committee it can be framed so as to work on the lines suggested by my hon. friend Mr. Anundo Mohun Bose, namely, that the Bill should be worked through municipalities, who should conduct all prosecutions after due and careful enquiry; if such changes are adopted in Select Committee, I shall have no objection to entertaining that proposal. But you will all understand that if there is any larger measure, of necessity we shall then be obliged to postpone its passing at the present meeting. The sanction of the Government of India to immediate legislation has been given on the lines on which the Bill is now framed. We cannot very well go beyond that, though there can be no difficulty in the extension of it on the same lines to other municipalities.

The motion was put and agreed to.

The Bill was read accordingly.

The HON. THE ADVOCATE-GENERAL moved that the Bill be referred to a Select Committee, consisting of the following members, with instructions to report in one week:—The Hon. Mr. Garrett; the Hon. Mr. Harrison; the Hon. Rai Jai Prokash Lall Bahadoor; the Hon. Mr. Anundo Mohun Bose, and the Mover.

The motion was put and agreed to.

The Council adjourned to Friday, the 24th September, 1886.

The Council met at the Council Chamber on Friday, the 24th September, 1886.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*

The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. H. L. Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. Jai Prokash Lall Rai Bahadur.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. Anundo Mohun Bose.

AMENDMENT OF BENGAL ACTS IV OF 1876 AND III OF 1884.

The Hon. the Advocate-General presented the Report of the Select Committee on the Bill to amend Act IV (B.C.) of 1876.

The Hon. the Advocate-General also moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill.

He said: Before that motion is put, I take the opportunity to point out to the Council what is set forth in the Report of the Committee which is this, that we have amended the Bill and made it applicable also to the mofussil, and the title of the Bill is therefore changed from a Bill "to amend Act IV (B.C.) of 1876" to a Bill "to amend Act IV (B.C.) of 1876 and Act III (B.C.) of 1884." We have amended section 2 by making it more extensive so as to apply to municipalities in the mofussil. Section 251 of Act III of 1884, to which the amended section 2 of the Bill is to apply, is almost in the very terms of section 292 of Act IV (B.C.) of 1876, and section 251 is in Part VI of Act III of 1884. Section 220 of Act III of 1884 provides as follows:—"No provision contained in this Part or in Parts VII, VIII, IX, or X, shall apply to any Municipality unless and until it has been expressly extended thereto by the Local Government in the manner provided by the next succeeding section." The next succeeding section provides for the manner in which all or any of the provisions of that Part shall be extended. So, under the operation of that section, the amended Act will extend at once to certain municipalities to which Part VI has been already extended, and may be extended to any other municipalities to which the Lieutenant-Governor may think right to extend it. The Report of the Committee also takes notice of other important matters which were brought to its attention, but in consequence of the limited character of the Bill could not do more than simply notice them.

The motion was put and agreed to.

The Hon. the Advocate-General moved that the Bill, as amended, be passed.

The Hon. MR. IRVING said:—I have no intention of moving any amendments on the Bill before the Council, but I cannot but express my regret that the Select Committee have passed over the recommendations contained in the letter of the Public Health Society. Those recommendations have been supported by the entire European Press, and there can be no doubt whatever that they represent the views and wishes of the great majority of the European, perhaps I should rather say of the Christian, population. The recommendations appeared to me to be strictly on the lines and within the scope of the proposed amendment, and to stand in need of no special advocacy. I had hoped that they would have met with the ready and unqualified acceptance of the Select Committee, and it is difficult to understand that they can have been set aside even on the ground of expedience or want of time. No doubt the Council was called upon to deal with the specific question of ghee adulteration, but the recommendations on behalf of the European community were so closely allied to the main proposals that it seems almost invidious that any distinction should have been made, and that the grave evils of which the Health Society complains should thus be left without redress for an indefinite period. It seems to me that the Committee has created a distinction where no real distinction exists, and that consequently the European community has been placed at a serious disadvantage. In this country it is surely the Europeans who stand most in need of protection in such matters. They cannot support their claims on the grounds of religion or caste, but their desire for purity in all food stuffs should, I think, receive every consideration, the more specially as it is based on the experience acquired in the working of the existing Acts on the subject of adulteration that are in force in Great Britain. I trust it will not be supposed for a moment that I grudge our native friends the protection they have gained. On the contrary, I congratulate them on their success. But I should be glad if His Honour the President of the Council could assure the public that the wider suggestions that have been put forward will receive the favourable consideration of the Government in the larger measure which will shortly be again brought before the Council. The promptness with which the present instalment of legislation has been granted is a welcome proof that the Government is fully aware of the great importance of the subject, and may be regarded as an earnest of the liberal spirit and practical manner in which any future proposals will be considered.

The HON. MOULVIE ABDUL JUBBAR said:—I regret my indisposition of a few days prevented my attending the Council on the last occasion and offering, on behalf of my co-religionists, my heartfelt gratitude for the promptness with which Your Honour and the Council has taken up this legislation on the subject of the adulteration of ghee. The Muhammadan community are very sensitive of any wrong that might directly or indirectly be done to their religious feelings, and nothing wins their affections so much as the adoption of any measure, either executive or legislative, which protects their religion from danger. The question of the adulteration of ghee is not one which particularly affects

their health. It is the adulteration of ghee with articles, the use of which is strictly forbidden by their religion, that has troubled their minds. In using adulterated ghee they would not suffer so much in health as in conscience, and therefore, knowing as I do the feeling of my co-religionists, I think I am right in saying that they lie under deep obligation to Your Honour and the learned Advocate-General for this Bill which is about to be passed in the nick of time to put a stop to an evil which has been complained of by the oldest Association in Calcutta, namely, the Muhammadan Literary Society.

The HON. MR. HARRISON said :—I ask leave to say on behalf of the Select Committee that I am quite sure that the very last feeling by which we were animated was indifference to the well-being of the European Christian community, or by a desire to ignore the recommendations made by the Health Society. I may say for myself, and I believe I may say for all those members who were in the Select Committee, that we were actuated by quite the opposite feeling, that is, by a desire to adopt every suggestion which we thought could be adopted, always having regard to the urgent necessity of not asking the Council to pass any measure which had not been sufficiently considered in all its details. So far from that, it seems to me that the complaint from the opposite quarter which has been received was equally worthy of attention. Whereas the complaint was that ghee was adulterated so as to injure religious sentiments, the proposed measure, instead of merely remedying the particular evil to which attention was drawn, is a measure which goes much further, and which protects all classes of food. I would therefore point out what the reasons were why we could not adopt those suggestions. I will not go into every detail, but only the principal ones. Possibly the most important recommendation proposed by the Health Society is section 2A, which runs as follows :—

"Every person who sells or exposes for sale for human food or consumption any of the following articles shall be liable to a penalty not exceeding one hundred rupees :—

Any animal or part of an animal which died of disease ;

Any animal or part of an animal, or any grain, fruit or vegetable, which is unsound or unwholesome, or unfit for human food ;

Any blown, stuffed or pricked beef, mutton, veal, lamb or kid or other meat ;

Any sweetmeat or confection which is unfit for human use ;

Any articles for human food or consumption that have been exposed to infection."

Now, in the first place, there is the difficulty about having to prove what is intended for "human food." At present it is quite sufficient that the articles sold or exposed for sale are unfit for food. The hands of the executive officers would be tied by having the new item of proof that it was expressly intended for human food. In the second place what is the necessity of providing a new punishment for the sale of any animal or part of any animal which died of disease. Surely the sale of any animal which has died of disease is the sale of food that is noxious to health, and that is already punishable. It would simply throw a doubt as to whether it has been punishable hitherto.

For years past the greatest possible care has been taken to exclude the sale of all articles of that kind: they are destroyed summarily and immediately, and the only object of making such a provision would be to inflict a fine of Rs. 100. Then we have the offence of selling blown meat. Now the blowing of meat is a disgusting practice with which we are very well acquainted and which is summarily put down already. The destruction of the article is quite sufficient punishment. As regards "stuffed" meat we have no certain information as to what is intended. I am perfectly well aware of a certain kind of stuffing which is comparatively unobjectionable. I have seen it with my own eyes. As regards "pricking" the practice may be objectionable, but we do not know what it is. How was it possible when an attempt is made to pass an Act very promptly before the Durga Pujahs so as to satisfy the urgent call of the native community, how would it be right on the part of the Select Committee, to put draft sections in the Bill which they could not themselves have explained? I do not say that those provisions are not right and proper, but I am quite certain that further enquiry was necessary. I submit that no section of the kind I have read ought to be passed without at least the Corporation, in whose hands are the slaughter-house and markets of the town, having been asked to report. Then we have another new section proposed by the Health Society—section 292D, which provides as follows:—

"Every person who is found in possession of any animal or part of an animal which died of disease, or of any animal or part of an animal, or any grain, fruit, or vegetable which is unsound or unwholesome or unfit for human food, or of any adulterated or unwholesome article of food, shall be presumed to have kept or concealed the same knowingly with a view to sale until the contrary be shown."

Here a principle of evidence is brought into the law which may be perfectly right and proper. But one difficulty is that possibly it might raise an objection to the measure on the ground that it contravenes the Evidence Act. Now would it have been wise for the Select Committee to have inserted in a Bill, to the passing of which within one month the sanction of the Government of India had been given on a letter and report previously made, a provision of that kind which might have led to its being said—You have altered the Bill, which was perfectly unobjectionable at first, in a way which makes it not unobjectionable now. I would most emphatically repudiate any idea of indifference on the part of the Select Committee to the interests of the European community. That idea was totally absent from our minds. The sole question was, was it wise, in an Act to be passed as a tentative measure and in a rapid manner, to put in anything in regard to which we had the slightest doubt, or to put in anything which might lead to the complaint that legislation had been unduly precipitated. It was simply and solely that from a sense of responsibility we were bound not to insert anything in the Bill which was not perfectly free from objection that we left the measure in the state in which it is now before the Council.

The HON. RAI JAI PROKASH LALL said:—On behalf of the people of Behar I beg to express to His Honour my sincere thanks, not only for the readiness

with which he has responded to the call of the native public for prompt legislation, but also for accepting the recommendation of the Select Committee for extending the operation of the Bill to the Mofussil Municipalities. It is also a significant circumstance, pregnant, I trust, with happy augury for the future, that the European non-official community of the metropolis, both through their able representatives in this Council and the powerful exponents of their views in the English Press, have evinced warm sympathy with the people in their great distress. I accept the Bill as only an instalment of a much needed reform. I would have been very glad indeed to see it so amended as to be more complete and applicable to every part of the territories under His Honour's rule; but such a course would have entailed delay, and delay would have been dangerous in the present instance. Our great national festival is approaching, and we want a speedy and prompt relief. Having, therefore, to choose between the two alternatives, I thought it expedient to accept the present measure. I hope, however, Government will not cease in their endeavour to put down the evil by all the means in their power, both legislative and executive.

The Hon. the President said:—I think it is a satisfactory result that a Bill has been prepared on this subject, which has occupied the attention of the Council during the past week, and has now reached its final stage, and I hope that, with the safeguards against indiscriminate prosecutions, it will meet the particular object for which legislation was undertaken. The action of the Government has been criticised from two sides. First, it has been said that it was in no way the duty of Government to interfere in a matter of this nature, but that it should be left to the native community to make their own protective arrangements against the malpractices of the vendors of an article in such general use; and it has been urged on the other side that if the Government did intervene at all, its intervention should have gone much further and should have taken cognizance of details which demanded a remedy and which concern the interests of both Europeans and Natives alike. Now I confess, in the particular circumstances in which the Government was placed, I cannot feel any sympathy with either of those arguments. The papers noted in the margin of the Select Committee's report show that from very many places remonstrances have been addressed to the Government for not taking up this question of protecting them against the adulteration of ghee, and I may safely say that those reports and telegrams very partially indicate the extent of the excitement which prevailed amongst all the members of the native community in all parts of Bengal. Therefore, we were bound in our duty to respond at once to the application which has been made to us to provide a remedy for the evil which had been suddenly detected and which affects the native community most gravely in their religious feelings.

For the rest, as has been already explained more than once, it has been shown that there was a necessity for promptitude in legislation, and if the necessity was urgent, and the action required was prompt, it is quite clear that it was out of the power of the Council to enter upon wider considerations which would involve full and detailed enquiries, and would necessarily have required

at our hands publicity to the fullest extent of our objects and intentions. We may, therefore, accept as satisfactory, though possibly serving only a temporary purpose, the Bill which has now passed the Select Committee and is before us. At the same time I am not insensible to the importance of a more thorough consideration of the whole subject of food adulteration and that not only as regards natives, but as regards Europeans also, and that such an enquiry should not be limited to the question of the manufacture and preparation of food, but also as regards its storage and supervision, and the larger questions dealt with in the memorial of the Calcutta Health Society which an Hon. Member has prominently brought to our notice. And in this connection I am glad to be in a position to announce to the members of the Council that His Excellency the Viceroy has anticipated the wishes to which expression has been given by some Hon. Members and by the Calcutta Press, both European and Native. I have received a telegram in which His Excellency has given the assurance that a communication has already been issued to all Local Governments and Administrations asking for their opinions as to the desirability of legislation with a view to more effectively checking the sale of adulterated articles of food, not only within the limits of presidency towns, but also in all municipalities and other local areas to which it might be proper to extend such legislation. Our present Bill will, I trust, be sufficient for the emergency which has called it forth. But in the action taken by the Viceroy in Council an opportunity will be afforded to all gentlemen and associations and societies interested in the larger scheme to assist by their co-operation and advice to mature a more complete measure which should extend, I believe, to all parts of India.

The motion was put and agreed to, and the Bill was passed.

The Council adjourned *sine die*.

The Council met at the Council Chamber on Saturday, the 27th November, 1886.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay.
The Hon. T. T. Allen.
The Hon. H. L. Harrison.
The Hon. Moulvie Abdul Judbar.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.
The Hon. Babu Kali Nath Mitter.

NEW MEMBERS.

The Hon. Mr. Macaulay, the Hon. Mr. Allen, and the Hon. Babu Kali Nath Mitter took their seats in Council.

STATEMENT OF PENDING LEGISLATION.

The Hon. the President said :—Gentlemen, the business before the Council to day is purely of a formal character, and refers to a proposal to submit the Bill to consolidate and amend the law relating to the Municipal affairs of the Town and Suburbs of Calcutta to a Select Committee; and, though introduced under this unassuming title, it is a subject which has been under the consideration of the Government and the public for a very long time, and has been examined by a Special Committee of which my hon. friend Mr. Reynolds was Chairman, and of which, I believe, two of our hon. colleagues were members. I think the result of all these discussions and examinations up to this point has clearly established the principle that it is desirable that the Town and Suburbs of Calcutta should be amalgamated in one Municipal Administration, on the general and broad ground that the interests of two communities so contiguous to each other are positively identical, especially as regards sanitary considerations. The Bill has passed through its earliest stages, leave has been given to introduce it, and it has been introduced. It has received the general affirmation of the Government of India; and upon this point I may refer to some misapprehension which has existed, and found expression in the papers, that recently we have received from the Secretary of State some communications which affected the Bill very seriously. I may say that up to yesterday no intimation of any kind had been received by me from the Secretary of State upon the

subject. The Council may doubtless be aware that the rule which has been laid down by the Government of India as regards all local legislation is that, before a local Legislature can proceed to introduce any measure, it should submit, for the consideration of the Government of India, the general principles upon which the proposed legislation is based, and the Secretary of State has also expressed a wish that, in the case of all measures of extended scope and importance, he also may have an opportunity of seeing the lines upon which the measure is drawn, before the local Legislature proceeds to deal with it. If within two months from the time when the Bill is sent home no answer arrives, we understand that the Secretary of State is willing that we should proceed with it. In this case we have received an intimation from the Government of India that, although all the papers were sent to the Secretary of State some time ago, no reply had been received, and under these circumstances they have authorized us to proceed with the Bill, and have suggested in their letter certain matters for the consideration of the Council in dealing with the further progress of the measure. That letter will be laid before the Select Committee. One point which has pressed upon all who have been concerned in the matter, is the question of cost. We all agree that for general purposes, for sanitary purposes especially, the two Municipalities should now be brought under a single and united administration. The difficulty has arisen as to how a poor Municipality like that of the Suburbs can be brought under a system of control and direction from the Calcutta Municipality, without involving the rate-payers of Calcutta in heavy burdens. Obviously to do so would be very undesirable and improper, and the difficulty has been met by the Government undertaking to do what they have for a long time desired to do, that is, to relieve the Calcutta Municipality of the charge which they now bear for the Police of the Town. If that proposal is carried out, as I have no doubt it will be—it has been accepted by the Government of India—the Government of Bengal will assume responsibility for three lakhs of rupees a year, to which extent the Calcutta Municipality will be relieved. Those three lakhs of rupees may well be utilized in extending the advantages which Calcutta has received from its own Municipal administration to all parts of the Suburbs as far as they can be so used. It is not necessary for me at this stage of the proceedings to enter into any discussion or express any opinion as to the details of the Bill. I think we have chosen a Select Committee which is fairly representative of all interests; the only omission, I am sorry to mark, is the name of my hon. friend Mr. Reynolds, and with his permission I propose to add that also. So constituted, I think we shall have a Committee which represents all interests. For although we may be agreed and unanimous on the merits of the principle, it is a subject which, I freely admit, opens out opportunities for very wide differences of opinion as regards the details. I have suggested that the 10th of January should be fixed as the date on which the Committee should present their report. I recognize that that affords not so long a time as I could have wished; but in the present case the Government of India have made, it seems to me, the

rather unusual request, to which I need not further allude at present, that the report of the Select Committee should be submitted to them before any further proceedings are taken with the measure. We shall have, therefore, to obey that order, and some delay may occur in obtaining the result of their consideration of the report, before we can finally proceed to dispose of the Bill. Clearly, in a measure of this extent and importance, we shall require at least six weeks or two months, after the Select Committee have concluded their enquiries, in order to deal with the matter in full Council; and if it is an object that the Bill should be passed within the present session, I hope we may come to the consideration of the measure in full Council by a date not later than February. Although I am unwilling to say anything as to the direction the Bill should take, I may perhaps simply, in a few words, express this view: that assuming that the constitution of the Town Council and of the Commissioners will be somewhat on the lines suggested already by the Government in dealing with the matter, as far as my personal views are concerned, I should be willing to concede that the fullest independence should be accorded to the Municipal Commissioners under this Bill to deal with all matters comprised in the Bill within the terms of the law, without any intervention on the part of the Government. I can assure you that, having had now nearly five years' experience of Bengal administration, and having had the subject of Municipal administration specially brought under my cognizance in all its forms, both in the mofussil and in Calcutta, there is nothing which the Lieutenant-Governor—I speak not for myself only, but *any* Lieutenant-Governor—is more glad to be relieved of than the duty of interference, partly on account of the extraordinary amount of work which it throws upon him in this matter of Municipal administration, and partly on the wider ground that it is the best to leave Municipal administration free from such interference. In very many places we have seen in the mofussil, where harmonius co-operation exists, the very best results accruing from the measure of independence we have conceded, and I have not the slightest doubt that if we are to frame a Bill upon sound and proper lines, the right course, and the only proper course, is to leave to the Municipal Commissioners the utmost freedom to deal with the affairs of the Municipality under the power which the law gives them, without the annoyance which results from the interference of Government. But having said this much, I must repeat what I have said on other occasions in reference to the Acts relating to mofussil Municipal administration, that there should be and there must be a provision in the Act which shall reserve to the Government the absolute power and right to intervene in all cases where circumstances show that, whether from apathy, or indifference, or from quarrels, or any other causes, the public interests are neglected; and when I say that a clause to that effect must be provided in the present Bill, I only give expression to that which obtains, I believe, in every legislation of the kind in any part of the world where Municipal institutions exist. I believe I am right in saying that, in English law, nothing is more clearly settled than that, while giving the freest independence to local bodies, there is at the head of them all a Board, presided over generally by a Cabinet Minister, which has the most absolute

right of interfering in cases of the kind I have referred to. And if such is necessary in England, in a community where the population is homogeneous, I am sure that in a capital like Calcutta, where there are a thousand interests, different sections of natives of creed and colour, and a large body of Europeans, there should be an external power to intervene in cases where intervention is necessary.

There are two other items standing on the list of business, viz., the Bill to provide for the registration of permanent tenures, which is said to be in Select Committee; and the Bill to consolidate and amend the law relating to Canoongoes and Putwarris, which is also in Select Committee. The first was introduced as a measure of relief to the zemindars of the Province. When the Bengal Tenancy Act was under consideration, it was thought that the registration of tenures, if carried out, would afford relief to the zemindars in the realization of their rents, which was a constant subject of complaint; but since the Bill has been before the public, an expression of opinion generally prevails that the zemindars do not want it As far as I am concerned, if the zemindars do not want the measure, although the provisions of the Bill are such that they have been supported strongly by the High Court, and especially by the late Chief Justice, if the zemindars do not want it, the Government will certainly not press it on them; and though I should not propose the absolute withdrawal of the Bill, it will not be proceeded with. Similarly as regards the Putwari Bill that was introduced in connection with the measure of cadastral survey throughout Behar. You are aware that the survey was initiated in Mozufferpore, and carried to a very successful conclusion, so far as regards the last cold weather, and is yielding good results. But the Secretary of State, for financial reasons, desired that the survey should be temporarily abandoned, and with its abandonment of course the Putwari Bill, as a measure subsidiary to that cadastral survey and record of rights, will also remain in abeyance. The Bill, therefore, will not be proceeded with this session.

It is also proposed to introduce a Bill for the survey of the town of Calcutta. The last survey of Calcutta was made in the year 1847. It may readily be imagined, therefore, that the results of that survey are now almost useless. The subject was considered by a small Committee presided over by Mr Cotton, with Mr. A. Forbes and Baboo Gopal Lall Mitter as members, with the result that they drafted the Bill which is the basis of the measure which will be brought into this Council. The reasons generally are that, during the past thirty years, many changes have occurred with regard to Government holdings in Calcutta, which have been in many instances subdivided and amalgamated, so that it is necessary to have them again demarcated and their boundaries defined. The number of those holdings is 11,984. A new survey is also desired by Government on account of its topographical utility. But, as Mr. Cotton has reported, the measure is more necessary in the interests of the Municipality than it is in those of the Government; and it is for this reason that the Municipal Commissioners have agreed to pay a large share of the cost of the work. We have been in communication with

the Government of India, and have obtained their sanction to the employment of a professional party for the conduct of the work, which we intend to commence as soon as we are given the power to proceed. My hon. friend Mr. Reynolds will take charge of the Bill, and I hope it will be passed into law with as little delay as possible.

Then there is a Bill to provide for the regulation of the rural police in the Chota Nagpore Division. The Police there are on a different footing to those in any other part of the province, on account of the backward condition of the division. Without entering into the practical details of the Bill, which is a very small measure, I may say that power is required to give assistance to the headmen now employed in collecting the police dues and to legalize the agency which they employ, and also to increase the actual assessment of those villages from 15 to 20 per cent., in order to admit of funds being available. It is, as I have said, a very small measure, but it is one of considerable importance to that part of the country.

It is also intended to introduce a Bill to create a Port Trust for Chittagong. You may be aware that the trade of that port has within recent years developed and grown to a very marvellous extent. Chittagong is situated on the river only sixteen miles from the sea. It possesses a very fair harbour, and has now risen to a position in which circumstances justify us in establishing some kind of special body to regulate the affairs of the port: and after considerable consultation, it has been decided to introduce a Port Trust on the lines of the bodies constituted in places like Rangoon, Kurrachee, and other ports. The elective principle will be introduced, as far as possible, in the selection of the mercantile members of the Trust; and when that is established, you may be sure that, as in all other cases, and as in Calcutta especially, the means will be available to the Port Commissioners for introducing all the appliances which are so necessary and useful for the development of mercantile interests in a place like Chittagong.

That, and another Bill of a similar character, which is to amend the present Calcutta Port Trust Act with a view to establish the principle of election by the Chamber of Commerce of mercantile members, will be in charge of my hon. friend Mr. Macaulay. I may say, with regard to this latter Bill, that I received a representation from a gentleman belonging to the mercantile community in Calcutta, in February or March last, taking exception to the practice of the Government reserving in its own hands the right of nomination of all the members of the Calcutta Port Trust. I pointed out to him that, whatever I might personally wish in the matter, any compliance with the representation was barred by the Act of 1870, under which all members of the Port Trust were to be appointed by the Local Government; but I said, what I have always said, that, as regards the appointment of Port Commissioners connected with the mercantile communities, I should be always glad to discover the wish of the Chamber of Commerce. Upon that principle I have always acted. It has since been stated that it is desirable to place upon the Statute book power to the Chamber of Commerce to elect their own representatives; and

though at first it was suggested to me that the Chamber of Commerce did not represent the whole of the mercantile community of Calcutta, I have since been informed that those interests which are not represented in the Chamber of Commerce are practically so few that they need not be considered in a Bill of this kind. Therefore, I purpose by the amending Bill to establish twelve members of the Port Commission in addition to the Chairman: four members to be elected by the Chamber of Commerce, one by the Trade's Association, two members will always be natives, and then there will be left five to be nominated by Government to represent not only the official element, but also interests like those of the railways, and large shipping interests which possibly do not find a place in the Chamber. I have received from the Secretary of the Chamber the expression of the opinion of the Chamber that they are ready to accept a Bill based on these lines, and I hope in a very short time to be able to say that we have passed the measure.

I will now call upon the Hon Mr. Harrison to make the motion which stands in his name.

CALCUTTA MUNICIPAL CONSOLIDATION BILL.

The Hon. Mr. Harrison said that the Municipal Bill had now been before the public for the greater part of the year, and it would probably be not out of place if he made a few remarks on its present position. He had pointed out, on a previous occasion, that the Bill consisted of two very unequal parts: first, the portion which contained the constitution of the proposed enlarged Municipality and the general outlines of the terms upon which the amalgamation was to take place; and, secondly, the rest of the Bill, which prescribed the procedure for the guidance of the Municipality on all other matters. It had then been explained that the larger portion of the Bill had not up to that time been recast. But it was clearly recognised that the part of the Bill with which the public would be generally most interested would be that which marked out the lines of the future constitution of the Municipality, and therefore that portion was fully prepared. Other parts were reserved for the receipt of reports from Committees of the Corporation and the Suburbs, besides other bodies, and for such leisure as to the details as he might be able to give to it, for he need scarcely say that a Bill of this kind required very full consideration on many matters of detail which were of little interest to the public, but of very great practical importance. He was now prepared to go on with the second part, which the Committee would have to consider in detail. That portion was not at present before the public; but what was before them, and what had been before them for the last six months, was the constitution of the new body. He would therefore on this occasion confine his remarks entirely to that part of the Bill, and say nothing as regards the other portion till the labours of the Committee had terminated.

His Honour had already stated that the necessity for the measure had now been generally admitted. It was a measure which, by its very nature, was bound to elicit criticism from all sides. In the first place the inhabitants of the Suburbs

apprehended an increase of taxation, and the inhabitants of Calcutta apprehended additional burdens on account of the improvements necessary in the Suburbs. All those who thought that the system introduced in 1876 had been a failure desired to see that system more or less undone. On the other hand, those who thought it a success desired to see it still further extended. But this Bill, as regarded the constitution of the Corporation, was for the most part constructed on the old lines. On these grounds he could scarcely hope that it would satisfy any one. Looking to the certainty that the views of parties were likely to be extreme, he did not think he was wrong in saying that a Bill which satisfied no party was probably the fairest and most equitable measure. The Act of 1876 had been introduced with considerable hesitation. They knew that the then Chairman of the Municipality made no secret of his being strongly opposed to the elective system, especially on the ground, as he stated, that the improvements in the Municipality would come to a standstill. He said that all the great measures of reform which had been introduced had been introduced against the wishes of the people of the Town, and that every one of them, in the first instance, had been opposed, though after a time the value of nearly all had been admitted. Therefore he said that if the elective system was introduced, it was certain the work of the Municipality must come to a standstill. On the other hand, there were many who anticipated that the system would be satisfactory in the highest degree. The results showed that the views of neither party were entirely wrong nor entirely right. As was foreseen, the main object of the elected Commissioners was at first economy, and that had been markedly the case for the first year or two.

But, on the other hand, those who were opposed to the elective system did not allow sufficiently for the extremely valuable effects of practical experience on the education of those who were engaged in Municipal administration; they did not realise how soon a sense of responsibility would grow up among the Commissioners when called upon, when pressed on all sides, to carry out improvements, and to consider the welfare of the Town, and that there would gradually grow up a conviction that economy was not the only object at which to aim, and that after a time the new Municipality would begin to follow on the lines of the old Justices. This had proved to be the actual result: for he was glad to say that very considerable work had been done by the Commissioners, of which the public were not fully aware, chiefly for this reason. The work which was done by the old Justices was work done in the south of the Town, before the eyes of those who criticised them, and the work which was now taken up was work which was done in the northern part of the Town, where it was more withdrawn from view, and where those in the south were not conscious that it was going on. Of this work Mr. Harrison thought he could give a very fair test. The accounts which were kept by the official auditors, and which were above suspicion, showed as "block" the total amount of the work done by the present Commissioners; that was the total amount of permanent work done. The debt, on the other

hand, showed clearly the amount to which the Corporation had mortgaged its resources for the purpose of carrying out those works. The result of the assessment, although by no means perfect, was also a very fair test of the increasing value of the Town. So here there was, first, the means of showing how much money had been spent; then they could see how far the Corporation, to carry out permanent works, had mortgaged its resources; and, lastly, they had a practical test for the purpose of showing how far the value of the Town property had increased or decreased during the period covered by the improvements.

The figures as to these particulars were as follow:—The cost of the work done in the twelve-and-a-half years of the Justices was 170 lakhs in round numbers. The cost of the work done during the nine-and-a-quarter years up to the period of the last year of the Commissioners was 68 lakhs. So that, whereas the average yearly rate of work during the time of the Justices was Rs. 13,60,000, the average rate in the time of the Commissioners had been Rs. 7,30,000. Now, as by law they were only bound to spend Rs. 1,50,000 on permanent works annually, this, he thought, clearly showed that it was an entire mistake to suppose that they had been entirely negligent or idle. As regarded debt, the gross debt in the time of the Justices was nearly the same as it was now; but against this they had a large reserve fund, which was now gone in paying off debts. Allowing for this, the Justices had borrowed 119 lakhs, with which they carried on work to the extent of 170 lakhs. The Commissioners had augmented the debt by only 27½ lakhs, and showed work done to the extent of 68 lakhs, so that they had, proportionately to the work done, mortgaged the revenues of the Town less than their predecessors. He did not say this was wise, because the amount borrowed increased the value of the property of the Town; but it showed that the management had been prudent and economical. Lastly, as to the value of the Town. The assessed value of the Town was 85 lakhs when the Justices first came into existence, and it rose to 123 lakhs during the 12½ years of their reign. In the time of the Commissioners, the value had been augmented to 141 lakhs. If they multiplied it by 16 years' purchase, which was probably the fairest multiplier in the case of bricks and mortar, the value of the Town had increased by 614 lakhs, whereas, in the time of the Commissioners, the value of the Town had increased by 296 lakhs. Though the rate of progress was thus better under the Justices, proportionately better value had been obtained under the Commissioners. Therefore the apprehension that the work of improvement would come to a standstill had not been fulfilled. On the contrary, it had been shown that, as the Commissioners had become more experienced and learned more of the necessities of the Town, they had, in spite of the demands of their clients on the side of economy, found their way to spend very considerable sums, which had been laid out to very great advantage indeed, so much so that the assessed value of the Town had risen more than ten rupees for every rupee of augmented debt.

[*Mr. Harrison.*]

Having said this, he felt bound to say something in reply to those who argued that, if this elective system had produced all these results—if it had worked so well—it should be extended more fully. On this point he was justified in making some remarks, because it was well-known that he held a very strong opinion on this point. Calcutta differed entirely from small homogeneous municipalities in the mofussil, such for instance as Midnapur or Burdwan or Krishnagar. In those towns, if the people came forward and petitioned the Government that, as the elective system had worked well, they should have a larger proportion of elected Commissioners, the main question would be whether the contention was true, and if true, the prayer might be granted. In Calcutta the problem was totally different. It was the capital of the whole Empire during part of the year. It was also the seat of the Government of the wealthiest province of the Empire, containing a population of 70 millions. Besides that, its wealth was entirely due to its commercial and trading bodies, and it was no exaggeration to say that, if its trade was taken away, the value of the land in it would fall 75 per cent. In Madras land was not one quarter of the value it was in Calcutta. Calcutta was the chief commercial city on this side of India, and it was probably the medium by which exports and imports for scarcely less than 100 millions of people found their way out of and into the country. On the other hand, the permanent residents of Calcutta did not exceed 250,000, the remainder being attracted to it by its trade. Therefore, it was evident that the Government were perfectly justified in safeguarding all those large interests which had contributed so much to the wealth and importance of the city; that they had to look to those interests, and not merely to the interests of the residents. Under these circumstances, the proportion to be nominated by the Government was intended to represent those views and those interests which would not find adequate representation by mere election, and also those large minorities which similarly might be more or less ousted by it. He was perfectly certain that the work done would be far better done if the interests of those minorities were carefully conserved, than if they were ignored. Individually he was bound to say that he hardly thought one-third was sufficient. If the question was a perfectly open one, he thought it would be doubtful whether the system of election ought not to be cast on somewhat different lines, which would more equitably represent all interests and communities than mere numbers and parallelograms. But it was very difficult to undo what had existed for ten years. It was a great mistake to say that those who believed in the necessity for these safeguards therefore distrusted the people. The greatest of all advocates of Liberalism, Mr. Gladstone, defining on one occasion Liberalism and Conservatism, said that the latter was distrust tempered by fear, while Liberalism was trust tempered by caution. Whether this definition of Conservatism was a fair one or not it was unnecessary to say, but Mr. Gladstone admitted clearly that in his own policy trust must be tempered with caution. All Mr. Harrison asked for was that the policy of Government should be trust tempered by caution. It would no doubt be said that the Hindus

formed a very large proportion of the inhabitants, and that the representatives of this religion should be in proportion to their numbers. He could hardly conceive that people who used that argument could have any appreciation of the real problem which lay before them. There was no possible reason why representation should be entirely according to numbers, and not according to capital and interests. The elective system should be so managed that no party should be left with an overwhelming majority. He spoke from considerable experience, and he said that this was the best way of providing for the welfare of the Corporation. In ordinary cases there would be no difficulty, but every now and then questions came up in which the interests were wider than personal. In these cases it was of great importance that one community should not have a preponderating voice. It was well known that the Hindu members of the Corporation were the most energetic, active, and painstaking, and had taken a greater share in the work of the Town than others, and on that ground alone wielded greater influence. This was unquestionably true. Therefore it was argued that, if the Hindus had proved to be pre-eminent by their attention to business, their capacity for details and experience, instead of having four to seven, a proportion of three to four would be better. He said deliberately that, though the Hindus worked hardest, at the same time, if they had been more numerous, instead of doing better, they would have done worse—if less, they would have done better. This might sound paradoxical, but the reason was that if they were more numerous they could exercise their supremacy by the effect of mere numbers, when less numerous they must do so by the goodness of their cause and a knowledge of their case; if more numerous they would be more tempted to yield to interest and prejudice. He had said that Calcutta was not like a mofussil town, where the Government could leave its interests entirely in the hands of the Commissioners. But he might be allowed to draw attention to a further point. It had been over and over recognised that Calcutta was a field in which the capacity of the people for administration could be tested. He hoped that this capacity would ere long find a wider field. At present this was the largest arena. That being so, it was specially in their interests that the qualities for carrying on the administration should be acquired under favourable conditions. If it was possible for prejudice to carry weight without reference to reason or argument, it was certain that the quality of the Commissioners would fall off.

He had one more word to say. A new system of qualification had been introduced by the law. Previously all who paid a certain amount of rates were entitled to vote. Now all who held property of a certain amount a year, or who took out licenses, were entitled to vote. The reason for this change was one of very great importance. Under the old system it was perfectly impossible for the Corporation to prepare lists of those who were entitled to vote. The preparation of these lists rested before entirely in the hands of the candidates and their agents. He was glad to find that there was no serious opposition to the proposed change. Under the new system it was possible to

have a list prepared of those entitled to vote independently of the assistance of the candidates or their agents, and many who had hitherto not voted would now find themselves enrolled.

He moved that the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be referred to a Select Committee, consisting of the Hon. Mr. Reynolds, the Hon. Mr. Macaulay, the Hon. Mr. Allen, the Hon. Moulvie Abdul Jubbar, the Hon. Mr. Irving, the Hon. Babu Kali Nath Mitter, and the Mover, with instructions to submit their report on the 10th of January next.

The HON. MR. IRVING said:—Sir, I have no intention of occupying much of the time of the Council, but I have great pleasure in expressing my cordial approval of the main objects of the Bill. There can be no doubt that the time has come when the Suburbs must be amalgamated under one municipal system with the city of Calcutta, if we are to derive full advantage from the schemes of improvement which have lately been introduced in the city, and if the general standard of health is to be raised. At present it is not too much to say that the good work of sanitation that has been wrought by the Calcutta Municipality is to a large extent neutralised by the condition of the Suburbs, and that, until the amalgamation scheme is carried out, we have failed to take a very obvious precaution against occasional visitations of very deadly disease. It is all the more incumbent upon us to take every possible precaution to guard against the recurrence of such outbreaks, as the city is the centre of vast commercial interests which are very directly affected by the question of health. Only the other day the Egyptian Board of Health placed arrivals from Calcutta under quarantine, and the loss and inconvenience which are thus caused are no light matter, and have an important bearing not only on the welfare of Calcutta, but on the trade and commerce of the country at large. Appreciating as I do to the full the necessity for such a measure as the present, and approving of the main features of the Bill, I cannot now refrain from stating that there are certain important points in which I think it will bear improvement. The constitution of the proposed Municipal body is a matter of the very greatest importance, and I think experience has clearly shown that the smaller and more compact the Municipality the better it is for all working purposes. It seems to me that Europeans and Anglo-Indians should have an equal voice with the Natives in the Municipal government of the city, and it is gratifying to know that the Hon. Member in charge of the Bill so far agrees in this.

It is also a question whether a Town Council within the Municipality will work as well as a set of special standing Committees having charge of the various departments of municipal administration. The latter plan is certainly found to work well in England, and there is good reason to believe that small Committees, dealing with special matters, will be able to do so with great efficiency.

Again, the sections of the Bill respecting sanitation, buildings, and bastis will all require very close attention, which they will no doubt receive in

Committee. There are certain important questions in connection with these sections which will have to be very carefully considered, but when this is duly done, the measure will I doubt not be one that will commend itself to all sections of the community.

The motion was put and agreed to.

The Council adjourned to Saturday, the 4th December, 1886.

The Council met at the Council Chamber on Saturday, the 4th December, 1886.

Present:

The Hon Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*

The Hon. H. J. Reynolds, C.S.I.
The Hon. T. T. Allen.
The Hon. H. L Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. Babu Kali Nath Mitter.

CALCUTTA SURVEY BILL.

The Hon. Mr. Reynolds said—I rise to move for leave to introduce a Bill for the survey of the Town of Calcutta. I believe, Sir, that after what you said on the subject of this Bill at the last meeting of the Council it will be unnecessary for me to detain Hon. Members with any lengthy explanation of the objects of the Bill, or of the reasons which have led the Government to propose its introduction. The last survey of Calcutta was undertaken so long ago as 1847, and a special Act of the Legislature, Act XV of 1847, was passed for the purpose. This survey, which was entrusted to Mr. Simms, a Civil Engineer, was only a topographical survey, and showed no particulars of the boundaries of tenures and holdings, or of the names of the persons responsible for the revenue. It was afterwards supplemented in 1851 by enquiries conducted by Mr. Heysham, a Deputy Collector, who demarcated the boundaries of holdings, and prepared a register of the owners, the areas, and the rentals. During the thirty-five years which have since elapsed many changes have occurred, and the features both of the topographical and of the revenue survey have to a large extent been effaced. Many holdings have been sub-divided: numerous plots of land have been taken up for public purposes—by the Government, by the Municipality, and by the Port Commissioners: new streets and squares have been laid out: in fact, to those who can remember (as I can remember) what Calcutta was like thirty years ago, it is hardly necessary to say that the work of Mr. Simms and Mr. Heysham has practically become obsolete, and that a new survey is required. A general survey law (Act V of 1875) has since been passed by this Council for Bengal, but the legal advisers of Government are of opinion that this Act is not applicable to the survey of such an area as Calcutta, and the Government has therefore determined to follow the precedent established in 1847, and to apply to the Legislature for the necessary powers. The Bill has already been drafted, and, if leave is now given, I hope to be able to introduce it at the next meeting of the Council.

The motion was put and agreed to.

[*Mr. Allen; Mr. Reynolds; The President.*]

CHOTA NAGPORE RURAL POLICE BILL.

The HON. MR. ALLEN said—The motion which stands against my name is to introduce a Bill to regulate the rural police in the Chota Nagpore Division. The existing law under which the police are paid is Act VIII (B.C.) of 1878, but it has been found in practice that the state of things assumed by this Act has no existence in fact. By this Act provision was made that the pay of the police should be raised through the village headman; but it is said that as a fact there is no such person generally throughout Chota Nagpore, and, as a consequence, in order to turn the corner of the law, a paid agency being necessary, these tehsildars or agents have been appointed assistants to the headman. In this way, and through means of the penal clauses of the Act, some sort of police has been maintained; but the violence done to the existing law by this arrangement has at last called for redress, and the Bill which has been given to me in charge is intended simply to so alter the law that it shall conform to the actual state of things throughout the districts of Chota Nagpore. The only important particular in which the law is changed is with reference to the system of legalizing the tehsildars; the other amendments which are embodied in the Bill are unimportant. The papers have reached my hands so late that I am unable to say anything more on the necessity or the nature of the Bill; but if permission is given, when the Bill is introduced into Council, I shall go more fully into the details of the measure.

The motion was put and agreed to.

CHITTAGONG PORT TRUST BILL.

The HON. MR REYNOLDS, in the absence of the HON. MR. MACAULAY, moved for leave to introduce a Bill to appoint Commissioners for the Port of Chittagong. He said—The Council, I believe, are aware that this Bill is necessitated by the rapid development which the trade of Chittagong has undergone during recent years—a development which has affected not only the local trade, but also the direct trade with the United Kingdom, as well as with other parts of India. The finances of the Port have hitherto been administered by the ordinary local officers, but the time appears to have come when, in the opinion of Government, the growing magnitude of the trade and the importance of the interests concerned, require that the constitution of the Port should be placed under a Port Trust of the same kind as exists in Calcutta and the other larger ports of India. It is proposed to make this Port Trust partly elective. The number of Commissioners is intended to be nine, of whom six will be nominated by the Lieutenant-Governor, and three others elected by those firms which are engaged in commerce in the port. The Bill has been drafted, and if leave is given it will be introduced at the next meeting of the Council.

The HON. THE PRESIDENT said:—I may add that there is a general concurrence of opinion locally that some steps should be taken to promote the objects

[*The President*]

of this Bill, partly on account of the growing importance of the port, and the very large development of the trade of the place, and partly from the possibility that in a few years Chittagong will be connected with the railway system of Eastern Bengal; and still further the, I hope, not distant prospect that Chittagong will be connected also with Comillah and Sylhet, and the north-eastern frontier province of Assam. The facts which have most directly brought to the notice of the Government the necessity of establishing a Port Trust in Chittagong are as follow. There have been constant demands made upon the Government for the supply of all kinds of appliances for the port—dredgers, jetties, steam-tugs, and the means of supplying water to the shipping, and various other things were brought under our consideration, and which, in the present state of the finances, we were unable to supply. Thereby the question arose whether the establishment of a Port Trust would not enable them locally, by borrowing money on the credit of the port-dues, like any other Port Trust, to raise the revenue which will enable them to carry out those very necessary improvements at Chittagong. So that on every ground—on the ground of demands which have been locally made that some such measure should be introduced, and the necessity of spending a good deal more money in the improvement of the port than the Government are able to supply, and also the fact that Chittagong is coming within reach of the railway systems which are being established throughout the province—a measure like this seems to be urgently demanded. We have desired to adopt some system of election in the appointment of members of the Port Trust; but although there are several European and many native mercantile firms established in Chittagong, there is no such thing as a Chamber of Commerce; and the difficulty will be how to arrange that the elective principle as regards mercantile interests should be applied. However, when the Bill comes into Select Committee, that difficulty will, I hope, be overcome.

The motion was put and agreed to.

The Council adjourned to Saturday, the 11th December, 1886.

The Council met at the Council Chamber on Saturday, the 11th December, 1886.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*
The Hon G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay.
The Hon. T. T. Allen.
The Hon. H. L. Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.
The Hon. Babu Kali Nath Mitter

CALCUTTA SURVEY BILL.

The Hon. Mr. Reynolds, in introducing the Bill for a Survey of the Town of Calcutta, and moving that it be read in Council, said:—The Bill which I have the honour to introduce is based partly upon the old Calcutta Survey Act of 1847, and partly upon the Bengal Survey Act of 1875. The original draft of the Bill was prepared by a Committee consisting of the Secretary to the Board of Revenue, the Vice-Chairman to the Calcutta Corporation, and the Collector of the 24-Pergunnahs. This Bill is substantially the same as the draft which they prepared, with some amendments of no very great importance which have been introduced in accordance with suggestions made by the professional officers of the Survey Department. The Bill has been circulated, and is in the hands of hon. members. In all its main features it is nothing more than an enabling measure. It empowers the Lieutenant-Governor to direct a survey to be made of the Town; and to appoint a Superintendent and one or more Assistant Superintendents of Survey for the purpose. It goes on to authorize the Superintendent, either by himself or through his Assistants, to enter upon lands or premises, to procure the attendance of persons whose presence may be necessary, and to do all things which may be required for effecting a survey and demarcation of boundaries. It next provides for the settlement of disputes either by judicial decision or by reference to arbitrators, and here I may explain that it is intended that the Survey, so far as the professional and scientific part of it is concerned, shall be under the charge of a professional officer of the Revenue Survey Department, and that to the survey shall be attached a civil officer of the standing of a Deputy Collector, who will decide such boundary disputes as may arise, subject to an appeal to the Board of Revenue or to such other authority as the Lieutenant-Governor may

appoint. But it is not contemplated, or probable, that boundary disputes in Calcutta will be numerous, as the land is very valuable and the boundaries for the most part are well ascertained. Then the Bill goes on to provide that on the completion of the survey, the maps and other papers relating to it shall be deposited in the Calcutta Municipal Office, and that any person interested may lodge any objection, if he thinks fit, within a specified period, and that such objection shall be considered and decided, and that when all objections have thus been disposed of, the Local Government, if it approves the survey, may signify its approval by a notification in the local *Gazette*. That was the usual course adopted when a survey is made under Act IX of 1847. The Bill proceeds with the usual provision giving the Government power to lay down rules for regulating proceedings taken under the Act, and finally there is a section authorizing the Government to extend the whole or any part of the Act to such portions of the Suburbs as may hereafter be connected with the Town for municipal purposes.

The motion was put and agreed to.

The Bill was then referred to a Select Committee consisting of the Hon. Messrs. Allen and Anundo Mohun Bose and the Mover.

CHITTAGONG PORT TRUST BILL.

The HON. MR. MACAULAY, in introducing the Bill to appoint Commissioners for the Port of Chittagong, said :—The Bill, as Hon. Members will observe from the marginal references, follows in its main features the Rangoon Port Commissioners' Act, passed in 1879 by the Governor-General's Legislative Council. In one important particular, however, we have had to depart from that model. You, Sir, have decided to give effect to the elective principle in the constitution of bodies of this character in these provinces. As you have already informed this Council, it will be my duty at a subsequent meeting to ask for permission to introduce a measure to amend the Calcutta Port Commissioners' Act for this purpose. As regards the port of Chittagong, I would ask the attention of the Council to section 5 of the Bill. It is there proposed that there shall be nine Commissioners, of whom six shall be appointed by the local Government, and three elected by such body or bodies or firms engaged in the commerce of the port as the Lieutenant Governor on the report of the local authorities may direct. I may explain that considerable as has been the expansion of the port of Chittagong, it has not yet reached the point of having a Chamber of Commerce or any other commercial representative body of its own. The only feasible plan therefore was, until such a body should be created, which the local Government would be very glad to recognize, to leave it to the local Government to entrust the right of election to such firms as the local officers might report as being qualified by the extent of their transactions and other considerations to exercise it. Then as regards the removal of the Commissioners. The Rangoon Act provides that any Commissioner may be removed at any time by a written order of the Local Government, and in this respect it differs—and differs, I think, for the worse—not only

from the Bombay and Madras Acts, which contain the elective principle, but also from the Calcutta Act of 1870. Under that Act, although all the Commissioners are nominated by the Government, still the disqualifications are laid down by law. I have no doubt the Council will approve of my having introduced the new section 8, laying down the circumstances of disqualification, and not leaving the matter to the discretion of Government. As regards the remainder of the Bill, as I have said, it mainly follows the Rangoon Act, with the exception that, on the precedent of the Bombay and Madras Acts, we have introduced a special chapter providing borrowing powers for the Commissioners.

The Council will observe that the sections regarding works may appear at first sight somewhat formidable. They provide for possible expenditure upon wharves, jetties, and piers, and also for compelling ships to use the jetties and to pay dues, and they provide penalties for disobedience of these orders. As this measure has been regarded with a little apprehension by some mercantile authorities, who consider that the commerce and prosperity of the port of Chittagong may not perhaps be permanent, I will make a few remarks on that point. It has been suggested that the expansion of the commerce of Chittagong has been due to fortuitous circumstances, and that if these circumstances are altered it may disappear. It has been suggested that if the railway freights were reduced, a great part of the jute trade which now goes to Chittagong might be diverted to Calcutta. Without going into this question, I may point out that the commerce of Chittagong is not confined to jute. In the last year the exports of rice were even greater than the exports of jute. The amount of exports of rice was 63,510 tons as against 48,951 tons of jute. There is also a large import of salt, though I am aware, of course, that the imports of salt very often depend upon the exports of some other staples, because salt is sent out in ships which might otherwise come in ballast. But there are other articles of import which are deserving of consideration regarding the prosperity of the port. Besides salt, there is a considerable trade done in the import of mineral oil. Although in the last year the trade fell off to some extent, owing to its having been somewhat overdone in the previous year when nearly a million gallons of oil were imported, still Mr. Lyall, the Commissioner of Chittagong, whose opinion, I think, is entitled to great weight on everything concerned with that province, assures us that a great part of Eastern Bengal is supplied with mineral oil from Chittagong, and he told us in his last report that two petroleum ships were at the time on their way to Chittagong. I mention this because I think it necessary to remove a possible misapprehension. At the same time, I have to observe that there is no danger whatever of this section being made use of for the purpose of launching into any extravagant schemes. We have introduced this Bill to provide for the absolute necessities of the port, but we have thought it well to make the enactment as complete as possible. Regarding jetties, I may say there is no intention of constructing them until the trade of Chittagong has increased a great deal more, and, indeed, until the commercial

prosperity of the port has been practically assured. This is what Mr. Lyall writes:—"The trade of this port is peculiar, the larger proportion, both of jute and rice, being transhipped from smaller craft into the sea-going ships, and for vessels loading in this manner single moorings are preferred. Jetties are not at present required, the bulk of the freight being transhipped as above remarked. When the railway is made, the question of the necessity for jetties will come up." Apart from this expressed opinion of the Commissioner, I would draw the attention of the Council to the penultimate paragraph of section 65, which provides that "no contract under which a sum greater than Rs. 10,000 may in any event be payable by the Commissioners shall be valid without the consent, in writing, of the Local Government." I think, therefore, that the Council and the public may be fully assured that there is no danger of these sections being enforced unnecessarily, and they have only been introduced to make the enactment complete if the need should arise for their use.

With these observations, I beg to move that the Bill be read in Council.

The Hon. Mr. Anundo Mohun Bose said:—Having regard to the fact that this Bill was delivered to members after they entered the Council Chamber this morning, it will not be possible to discuss its provisions to-day, but I would beg to draw the attention of the Council to certain matters connected with the procedure in the introduction of Bills. According to our standing rules, it is necessary that a Bill should be delivered to members three days before the motion can be made to have it read in Council. I do not mention this matter with the object in the slightest degree of raising any technical difficulty. But it would be an advantage if in all cases the rule could be observed, so that members might have some clear idea of the leading provisions and outlines of a Bill before the present stage is passed. And this is not an isolated instance. Not only with regard to the present Bill, but it so happens that with regard to the Bill already introduced this day, as also the one which is to be introduced on the motion which will come next in order, the copies of the Bill were delivered, so far at any rate as I am concerned, too late for any proper consideration of the Bill, and certainly too late for compliance with the standing rules of the Council. They were delivered on Thursday evening, and with only one day intervening it would be hardly possible to consider the Bill as it would be the duty of Members to do. In this connection, I would draw the attention of your Honour to another suggestion, and it is this. With regard to this Bill, the Council were favoured with a speech by the Hon. Member then in charge of the Bill last Saturday, in addition to the observations made to-day by the Hon. Mr. Macaulay. It would be an advantage if the official proceedings of the Council could appear in the local *Gazette* which is published on the following Wednesday, instead of, as ordinarily happened, on the Wednesday following. He mentioned this because he intended to refer to some remarks that fell on the last occasion, and he could only trust to the report which appeared in the newspapers. They were grateful to the press for the reports which appeared of their proceedings; but these reports were often very meagre, and might sometimes not be altogether correct. I believe, if your

Honour expressed a wish in favour of this course, it would generally, if not always, be found possible to have the official proceedings of the Council published in the following *Gazette*, and this would be an advantage to Members of the Council in their discussions, and they would also often have the benefit of the discussions in the newspapers, based on full information contained in the official account of the proceedings. And thirdly, I would suggest for your Honour's consideration that it would be very desirable, especially in the case of Bills affecting limited local areas, that the official papers leading to the introduction of a Bill or its inception should be placed in the hands of Members. No doubt if we had in this Council representatives of local areas the inconvenience felt in discussing the provisions of a Bill without Members having access to those papers might be comparatively a good deal less. But on the present occasion, as the only source of information would be the official papers on which the Bill is based, it would be desirable that these should be put before Members. I imagine in most cases they could with advantage be placed in the hands of Members, and this would certainly secure a better and more effectual consideration of measures brought before the Council. I venture to hope that this suggestion may also meet with your Honour's favourable consideration.

With regard to the Bill itself, having regard to the circumstances of its introduction, it will not be possible, as I have stated, to discuss its provisions. But, as far as I can gather from what was said on the last occasion and to-day by the hon'ble Member in charge of the Bill, I think the time has fully come for a measure of this kind being introduced with a view to its being considered. I wish on this occasion to make one or two remarks with reference to one matter. I wish to accord, if I may do so, my cordial thanks for the recognition made in section 5, to which attention has been drawn by the Hon. Member, of the elective principle in the constitution of the Port Trust. Nothing is more remarkable in the recent history of political progress in this country than the steady growth of this idea, and the strong hold it has obtained on the public mind; and within this Council chamber itself it has received full recognition in the legislation with which your Honour has been so intimately associated. In the constitution of Municipal Boards, as well as of Local and District Boards, that principle had been conceded in the course of the last two years. In referring to the recognition of this principle in the Bill before us, your Honour remarked, in the course of the motion for leave to introduce the Bill, that there were special difficulties, having regard to the circumstances of Chittagong, in the way of giving effect to this principle as far as the representatives of the mercantile interests were concerned. That difficulty, your Honour pointed out, arose from the fact that there was no constituted or organized body representing the commerce of the port of Chittagong. It was worthy of note therefore that, even under those circumstances, we find the importance of the elective principle recognized and an attempt made to give effect to it. Without discussing the question at the present time, whether the proportion of elected Commissioners might or might not be made larger than is contemplated in the

[*Mr. Anundo Mohun Bose; The President.*]

Bill, it is my duty to accord to your Honour and to the Hon. Member in charge of the Bill, on behalf of the native community, their thanks for the elective principle finding a place in the Bill; and if it is not presumption on my part to say so, I trust that not in the dim and distant future, but before many years have passed away, that principle will be recognized in the constitution of the Legislative Councils of this Empire. If there is one desire more widely felt than another; if there is one conviction in the public mind getting more settled than another, it is the desire that in the constitution of the Legislative Councils of the Empire the principle of election should, as far as may be practicable, be given effect to: it is the conviction that, subject to whatever powers of control may be deemed necessary, public opinion should be more largely, more directly, represented in those Councils. If the utterances of one of the most honoured and respected members of the non-official European community at the late St. Andrew's dinner—I refer to our present popular Sheriff, who presided on that occasion—may be taken to represent the opinions of that community, then there is no question more ripe for consideration than that of widening the doors of our Legislative Councils and altering their character. I cordially support the principle of election embodied in this Bill, and venture humbly, but earnestly, to hope that, before many years have rolled away in their course, that principle will be recognized in a larger sphere to the honour and glory of the British administration, and to the safety and advantage of the vast interests entrusted by a wise Providence to its care.

The Hon. the President said:—The hon. member is certainly within his right in bringing to our notice that we are infringing a rule in proceeding with this Bill before it has been three days in the hands of members, and I may say at once that if he chooses to press that consideration upon us, I shall quite acquiesce in the suggestion that the further proceedings in connection with this Bill be postponed to the next meeting of the Council. But if he is not anxious to press the point, I think the fact that we have gone beyond the actual rule might be condoned in view that the Bill has been drafted on lines well understood in connection with other ports, and that it will be referred to a Select Committee, in which it is proposed that he himself shall be a member. With regard to the publication of speeches and of the proceedings of this Council in the following *Gazette*—that is, that the proceedings of our Council of Saturday should appear always in the *Calcutta Gazette* on the Wednesday following—I am afraid that very often when our proceedings are long, and the speeches of hon. members are long, it is totally impossible to frame any such rule on the subject. We have to depend upon the Press to give the first notice of the proceedings in this Council, and I think hon. members will agree with me that it too often happens that it takes us a considerable time, having regard to our other duties, to revise the detailed proofs of the speeches we make here. It is impossible, therefore, to formulate any rule in accordance with the Hon. Member's suggestion.

As to the publication of the papers relating to the Bill, the rules, so far as I am aware, do not directly provide for any such arrangement. It says that the

Bill must be accompanied by a full Statement of the objects and reasons, with any papers which the hon. member in charge of the Bill may consider necessary. But I may say with regard to this point, that it is the desire of the Government to place all information in connexion with legislative proceedings in the hands of hon'ble members, and that is our usual practice; and certainly, so far as I am concerned in the present matter, I shall be glad to bring all the information in our possession before hon. members when this Bill goes into Select Committee. In this case I have no doubt that the report we have received from the Commissioner of Chittagong, and other papers which appear on the subject, will be placed on the table in connexion with the Bill which it is now proposed to refer to a Select Committee, and an opportunity will, therefore, be given to any member to take a note of what might have been written, to take objection to anything which he objects to, or to give reasons for supporting the measure. I need not follow the hon. member into the larger question to which he adverted as regards introducing the principle of representation into our Legislative Councils in India, based on the suggestion of adopting the elective principle in the constitution of the Port Trust at Chittagong.

The motion was put and agreed to, and the Bill referred to a Select Committee consisting of the Hon. Messrs. Reynolds, Allen, Cruickshank, Anundo Mohun Bose and the Mover.

CHOTA NAGPORE RURAL POLICE BILL.

The HON. MR. ALLEN introduced the Bill to provide for the regulation of the Rural Police in Chota Nagpore, and in doing so said:—There is no need for me to take up the time of the Council with a long speech upon this Bill, as it is nothing more or less than a reproduction of the existing Act VIII of 1878, with one slight change,—that in place of the village headman on whom the working of that Act was imposed, we have substituted the circle tehsildar. It was found impossible without a paid agency to make assessments and to realize the amount of taxation which each village had to contribute, and as usual the provisions of the law had to give way to the necessities of fact. It is now proposed to recognize these facts, and to make legal the nomination of the paid tehsildar. Beyond this substitution of the circle tehsildar for the village headman, the present Bill makes no substantial change in the existing Act. The maximum rate which was allowed to be paid to the chowkidar has been raised in order to meet the rising prosperity of certain villages in the neighbourhood of coal mines, where it is impossible to procure chowkidars upon the pay which was legal under the former Act.

The HON. MR. ANUNDO MOHUN BOSE said, with your Honour's permission, I beg to make some observations at the present stage of this Bill. It seems to me that we have no information on which exactly to justify the proposed changes incorporated in the Bill. The whole basis of the Bill, to use the language of the Statement of Objects and Reasons, is this, that the headman, on

[*Mr. Anundo Mohun Bose.*]

whom the hinge, so to speak, on which the whole machinery of the former Act rested and turned, was a mythical person. Now, Sir, this certainly was strong language to use with respect to the very existence of the fact which formed the basis of legislation not of so many years ago, but of only eight years back. It becomes, therefore, necessary to examine what is our present position with regard to the Bill itself. This is what the Hon. Member is reported to have said when moving for leave to introduce this Bill: "The existing law under which the police are paid is Act VIII (B C.) of 1878; but it has been found in practice that the state of things assumed by this Act has no existence in fact. By this Act provision was made that the pay of the police should be raised through the village headman; but it is said that as a fact there was no such person generally throughout Chota Nagpore" This is a remarkable statement, and there could possibly be no mistake as to its meaning or significance. Its essence was this, that this Council, in legislating in this very matter in 1878, was, so to speak, as regards the very foundation of the Bill, in absolute ignorance of the actual state of things; that the Act passed in that year did not rest on a foundation of stone or even of sand, because that would imply *some* foundation, but on no foundation whatever. This certainly ought to impress on us that we should proceed with great caution and full information in our legislative course; and it is necessary to consider carefully what we have before us at the present time to justify us in proceeding with this Bill. We find with regard to this matter that we are hardly in a much better position at the present time. It is necessary to know a good deal about this headman, because it is proposed to do away with him, and to substitute in his place tehsildars to be appointed by the Deputy Commissioner for every circle of villages. The Hon. Member is reported to have said, with regard to the village headman, that there was "no such person generally throughout Chota Nagpore." I am not quite sure that I understand what is intended, and whether the meaning is that he does exist in certain limited portions of the division in question, and not in other portions. Then if the fact be so, it becomes important to examine the provisions of the proposed Bill with regard to that fact. That is to say, it might not be necessary to introduce the change in regard to those portions of the division in which the headman exists. Instead of introducing the general principle now advocated, it would be desirable to limit it to areas where the headman does not exist. In the next place, I would draw the attention of the Council to the fact that there seems to have been a serious alteration in the character of the Bill since the matter was referred to by Your Honour at the opening of the present session of the Council. On that occasion Your Honour was pleased to observe: "Without entering into the practical details of the Bill, which is a very small measure, I may say that power is required to give assistance to the headmen now employed in collecting the police dues, and to legalize the agency which they employ." It seems, if I understand the Bill correctly, that instead of *assisting* the headman, it is proposed to *abolish* him altogether; and further, instead of *legalising* the agency they employ, to *substitute* that agency in his place.

[*Mr. Anundo Mohun Bose.*]

This is a very important, nay radical, alteration in the entire scope and character of the Bill since it was referred to by Your Honour on the 27th November last. I am not aware whether in the few days that have elapsed since that date any circumstances have come to light which have led to the proposal for the entire abolition of the headman, instead of providing him with assistance and legalizing the agency employed by him. I think the Council is entitled to some information on this subject. Then there is the fact—a fact of more than ordinary importance, having regard to the circumstances connected with the history of the legislation—that there is no member in this Council who might be said to represent in any sense the Chota Nagpore Division or the districts of Hazaribagh or Lohardugga, because in that case such members might have been of help in throwing light upon the questions now before us. It will therefore become all the more necessary to have official information on this point placed fully before the Select Committee and the Council. Let us realise that we are now receding from a position which was deliberately assumed by the Legislature in 1878, not as regards a question of principle, but a question of fact, viz. as to the existence or non-existence of a certain functionary in the village economy of the districts of Hazaribagh and Lohardugga. The next point I would notice is this. Reference was made in the speech of the Hon. Member to a paid agency which has had to be introduced for the collection of the chowkidaree dues, and to help the headman in making the assessments; thus, in the language of the Hon. Member, turning the corner of the law. It is desirable that there should be information with regard to this paid agency unauthorised by law; as to the character, cost, and efficiency of this paid agency which it is now proposed to substitute altogether for the village headman. Another point which I will notice is in regard to the definition of village headman in the existing Act VIII of 1878. A headman is defined in section 2 of that Act to mean "the person entrusted with collecting the village rents, by whatever designation he may be called." It would have been an advantage if, in the remarks which the Hon. Member has addressed to the Council, he had referred to that definition. I do not know whether even a headman, according to the definition given there, is or is not found to exist in the villages of the districts referred to in the Act. I do not fancy the villagers there are in the happy position of not having to pay any rent, being peasant proprietors of their own little farms or holdings. I do not think that is the state of things. But if it is not, one would like to know whether there are not persons entrusted with the collection of village rents. We may presume that there would be such persons. Does then the difficulty arise from just the opposite reason, viz. that there are more persons than one entrusted with the collection of rents in a village, because the Act does not contemplate a number of persons, but one person in each village as headman? Whether that is the circumstance which has led to the difficulty about finding a headman, is a point which requires to be cleared up, but about which we are left in absolute obscurity. Under these circumstances the basis of the alteration intended to be introduced by the present Bill, viz. the non-

existence of the village headman, does not seem to have been as yet sufficiently established.

Then, Sir, passing on from this point, there are one or two other matters which I should like to notice. The Hon. Member referred to the fact that it is proposed to increase the maximum pay of the chowkidar from Rs. 3, as laid down in the present law, to Rs. 4; and I am not prepared to say at the present moment that the reason he has assigned, viz. that in certain villages situated in the neighbourhood of coal-mines labour has risen in value, and it will be necessary to employ policemen on higher pay, is not sufficient. But I do not think the Hon. Member is strictly correct in stating that there is no other substantial alteration of the law proposed in the Bill. There are, however, one or two other matters of much greater importance than the point he has noticed as to the proposed increase in the maximum pay of the rural police. In the present Act the margin of excess for collection is 15 per cent. over the actual pay of the chowkidar. It is proposed by section 7 of the Bill to make it 3½ annas in the rupee, which means 21·875, or roughly speaking 22 per cent., thus increasing it from 15 to 22 per cent. That is a matter which, I think, requires explanation. We are all aware that in no other division of the province is the peasantry, as a whole, so poor and ignorant and helpless as in the division of Chota Nagpore. That being so, any increase of taxation proposed to be made on them requires to be zealously watched, especially bearing in mind the fact that the whole thing is to depend upon the decision of the Deputy Commissioner, even without the help of any consultation with the villagers. It seems to me that some justification is needed for the proposal for increasing the excess portion of this rate from the present limit of 15 per cent. to 22 per cent. We have had no figures laid before us to show us the present cost of the machinery, or that which it is proposed to substitute for it, which would make it necessary that probably the poorest population in all the provinces under Your Honour's Government should be under the liability of having increased taxation laid upon it. Not only is it that no reasons are found sufficient to justify such increase, but not even is an attempt made to show that there is any occasion for such proposed increase. That is one of the substantial or important changes with regard to which no explanation is given.

Then there is another point which seems even of greater importance. The existing Act is limited to the rural police in the districts of Hazaribagh and Lohardugga. In the Bill under consideration it is proposed to introduce the operation of the whole Act at once in those districts and of some parts in the district of Manbhoom, and to give power to the Lieutenant-Governor to extend the whole of it to any other districts in the Chota Nagpore Division. That seems to me to be a very important extension as far as the legislature is concerned, in respect of which it would be desirable to have further light and further information. At the present time the other districts in the division, besides Hazaribagh and Lohardugga, would, I presume, be ordinarily subject to the operation of the general Village Chowkidari Act,

[*Mr. Anundo Mohun Bose; The President.*]

viz. Act VI of 1870 as amended by Act I of 1871 and the Act I of the present year. The proposal to take away the applicability of the general law, which was of a very different character from the limited law now proposed, is a change of a very wide character in respect of which nothing whatever has been said. It is true that it is proposed not to extend the Act directly to the other districts, but to give the Local Government power to extend it. But as far as the Legislature is concerned, it makes the law applicable to the whole division, without the necessity of any reference to the Supreme Government.

These are the considerations which present themselves at this stage of the Bill, and with regard to which the fullest information is certainly necessary. I do not wish to propose that this motion be postponed until we have that information; but I venture to suggest that if this Bill goes to a Select Committee, before the Committee begins its consideration of the Bill, a pretty long time should be allowed to elapse, so that after the publication of the Bill we may have some information from the inhabitants themselves in Chota Nagpore with regard to matters of fact and the existence or non-existence of the headman, and with regard to the various points to which I have drawn attention. It may be, as is stated in the Statement of objects and reasons, that there are no intelligent and influential headmen of villages; but there may be some intelligent men in the whole division, who may be able to render assistance in the discussion of the proposed measure; and I hope that all the communications on the subject which have been received by the Government will be placed before the Select Committee and the Council.

The HON. THE PRESIDENT said:—I have no intention of following the hon. member in all those points of details upon which he has spoken. It is not intended to refer the Bill to a Select Committee to-day. We have decided that, considering that the reports upon which the Bill is based are now of some months' standing, it would be preferable that the draft of the Bill which has been prepared should be circulated to the Commissioners and Deputy Commissioners of the districts to which the Bill will apply, in order that they may consider our proposals and give us the benefit of their suggestions. Therefore, there will be at least one month's delay before the Council is asked to refer the Bill to a Committee. In the meantime I can give the hon. member the assurance that whatever papers we have in any way connected with the proposal before the Council will be printed and circulated to hon. members. The interest which the Hon. Member seems to take in this Bill justifies me in suggesting that his name should be included among those to whom the Bill will be referred. There is only one point to which I shall further allude and that is this. The hon. member takes us to task for throwing a slur upon our predecessors of 1878. He said that the Government and the Legislature of that year proceeded on the assurance that there existed in every village such a personage as a headman, and that we now say that he has no existence. I think if the hon. member had carefully looked at the Statement of Objects and Reasons of the Bill, he would have noticed the

qualification which the hon. member in charge of the Bill had introduced in the first portion of it. It said that the Act of 1878 had proved a failure, because *the intelligent and influential* headman who was assumed to exist in every village of Chota Nagpore had, in fact, no existence. The want of intelligent and influential headmen did not justify the Government in leaving in the hands of incompetent persons the difficult and delicate task of making the assessments and levying the tax, and therefore, in carrying out the objects of the Act, we had to substitute a paid agency which was not recognized by the law, and this practice it is now proposed to legalize.

The motion was put and agreed to.

The Council adjourned to Saturday, the 18th December, 1886.

By subsequent order of the President, the Council was postponed to Thursday, the 23rd December, 1886.

The Council met in the Council Chamber on Thursday, the 23rd Dec., 1886.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, Presiding.*

The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
The Hon. T. T. Allen.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Lalla Ban Behari Kapur.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.
The Hon. Babu Kali Nath Mitter.

CALCUTTA PORT TRUST BILL.

The Hon. Mr. Macaulay, in moving for leave to introduce a Bill further to amend the Calcutta Port Improvement Act, 1870, said: I may at once explain to the Council that the measure which I propose to introduce will be very limited in its scope. No doubt it would have been desirable to have had an Act which would have been a consolidating as well as an amending measure. The original Act of 1870, entitled an Act to appoint Commissioners for making improvements in the Port of Calcutta, has already been amended no less than five times by Bengal Acts VII of 1871, III of 1872, IV of 1880, I of 1881, and II of 1883. At the same time, with the Calcutta Municipal Bill, on which, as our colleagues are aware, a Select Committee of several of us are constantly engaged, with the Chittagong Port Trust Bill, which I had the honour to introduce at the last meeting, and with the other measures before us, I think we shall be fully occupied this session without embarking in addition upon a large measure of consolidation. The scope of this Bill will therefore be confined to the amendment of the constitution of the Calcutta Port Trust. The details will be explained hereafter at the proper time when I come to lay the Bill before the Council. Meanwhile, I may say that the object is to recognise and affirm the elective principle in the constitution of that body. It need hardly be said that such a body as the Port Commissioners cannot be really useful and effective unless they are fairly representative of the interests which are concerned in the good management of the Port; and therefore the Government has always endeavoured to secure a substantial representation of commerce and trade, and the members of the Chamber of Commerce and the Trades' Association have been freely appointed to the Board. The next step naturally was the recognition of the fact that those who possess those interests are best qualified to select persons to represent them; and on this principle you,

[*Mr. Macaulay.*]

Sir, as the head of the Government, have in practice allowed the Chamber of Commerce and the Trades' Association to nominate successors to retiring Commissioners who were representative of those bodies. I think it is desirable, however—and this has been decided by the Government—that this privilege of election should be confirmed by law to the institutions which represent commerce and trade; and without going further into details at this stage, I may venture to express a hope that the Council will also be able to see its way to giving some representation to general local interests. The details, as I have said, will be for future consideration, and with these observations, I ask you, Sir, to put to the Council the motion which stands against my name.

The motion was put and agreed to.

The Council adjourned to Saturday, the 8th January, 1887.

GEDON LEITH,

Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.